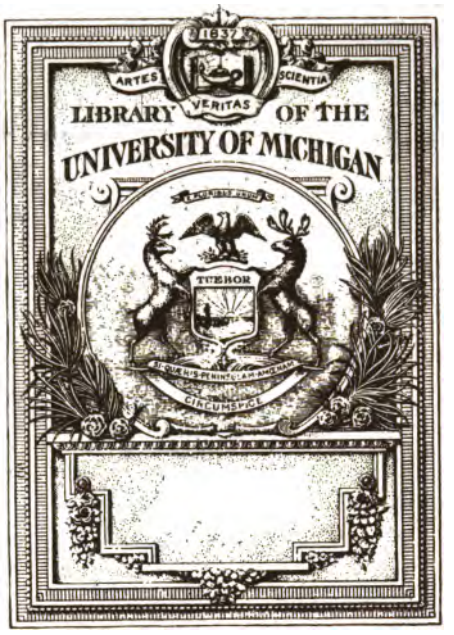
YEAR BOOK of the UNITED STATES BREWERS ASSOCIATION

1919



THE 1919 YEAR BOOK

of the

UNITED STATES BREWERS' ASSOCIATION

CONTAINING

THE HISTORY OF NATIONAL PROHIBITION AND THE ANTI-SALOON LEAGUE, AN ACCOUNT OF THE BREWING INDUSTRY'S DEVELOPMENT, AN ANALYSIS OF THE VOLSTEAD LAW AND ITS EFFECTS, EUROPEAN SYSTEMS OF LIQUOR REGULATION, SIGNIFICANCE OF RECENT ELECTIONS, A RECORD OF THE LITIGATION IN THE UNITED STATES COURTS AND TABLES OF STATISTICS.

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INTRODUCTION

The story of National prohibition in the United States is a curious tangle of idealism and hypocrisy; of altruistic sentiment organized and exploited by a group of shrewd men who have made the promotion of prohibition a well recognized and lucrative profession. The clever opportunists who have directed the movement during the last twenty years, have taught new tricks to politicians; have found new ways to evade majority rule, and to exercise the balance of power by wielding a compact minority as a club over legislative bodies. Half-truths have been skillfully used to misrepresent conditions; facts have been distorted; prejudice has been turned into a weapon of offence; the truth has been consistently suppressed whenever it might have qualified the assertions of the prohibition leaders, and anyone daring to question their statements or their attitude has been assailed with a degree of personal malice and venom which is almost unparalleled in our political history.

The brewers saw clearly long ago that saloon abuses were largely responsible for prohibition sentiment, and they made many an honest effort to improve conditions. It was, however, a lonely fight, as the brewers got little or no help from the public authorities in their betterment campaign, and at no time received the slightest encouragement or co-operation from any of the so-called temperance forces. For more than a generation the industry has been harassed at every turn. It is probably a safe estimate that the various bills affecting the industry which were introduced in State legislatures and in Congress, during the past twenty years, would total fully 5,000 separate measures. While these measures have kept the industry constantly on the defensive, they have undoubtedly reflected the interest of the people in the liquor problem, and there is very little doubt that the great mass of the men and women of this country are opposed to the saloon as an institution. No matter how well it was conducted, the fact remained that it was

primarily a drink shop, depending for its profit mainly upon the sale of potent liquors. In country villages the rural saloon was indeed almost exclusively a whiskey dispensary, and was a disturbing factor in the stability of farm labor; in the South this was further complicated by the negro problem. The fight for sobriety has been going on for over one hundred years and has been intense for half a century. Labor organizations have long recognized drunkenness as a justifiable reason for discharge, and the courts have recognized it as a cause for action in domestic troubles. There is little doubt that a great majority of the people want this to be the soberest Nation in the world. The pity of it is that the over-powering national desire of the American people for real temperance should have been frittered away on an impossible plan and against which the signs of a great reaction are already apparent. The prevention of the public sale of all alcoholic liquors may be accomplished and even the enormous illicit trade which has sprung up in all parts of the country may be held in check by means of large forces of officials and swarms of paid spies and informers, though the present outlook is anything but encouraging on this point. The burden and cost must inevitably fall upon the Federal Government, for the individual States evince no strong disposition to co-operate. Even those which had adopted prohibition programs prior to the advent of the Eighteenth Amendment are obviously willing to shift the labor and expense of enforcement to the broad shoulders of Uncle Sam. But one fact stands out clearly in the present situation and that is that the traffic in alcoholics to-day, whether it be great or small, is confined to the potent spirituous liquors which are highly intoxicating, and that the mild wines and beers, which are regarded in many countries as actual antidotes to intemperance, and which, on account of their bulk, cannot be readily concealed, are out of the market.

The great problem is, of course, the manufacture of alcoholic liquors by individuals in their own homes, and for their own use. Home distilling has been the curse of Continental countries. It has not only broken down all prohibitive regulations, but has increased private drunkenness and impaired the morale of whole peoples to such extent that national governments have turned to the encour-

agement of the lightest beers and wines as the most practical remedy.

The Federal Prohibition Commissioner has issued, with the approval of the Commissioner of Internal Revenue, a notice to the Federal Prohibition Directors and Supervising Agents, that no permit is required by a person manufacturing non-intoxicating cider and fruit juices exclusively for use in his home, and that in this connection "the phrase non-intoxicating means non-intoxicating in fact and not necessarily less than one-half of one per cent of alcohol." This discrimination is a clear recognition of the impossibility of stopping home wine and cider making, which will inevitably lead to a laxity in other respects, and it is safe to predict that if the rigors of the Volstead act are not changed, the making of wine and other beverages will soon be a popular pastime in the homes of millions of our people.

The Supreme Court of the United States consolidated all the various cases which involved the Eighteenth Amendment and the Volstead act for its enforcement, and sustained both the Amendment and the National Prohibition act. The latter construes "intoxicating liquor" to include any spirituous, vinous, malt, or fermented liquors containing one-half of one per cent of alcohol by volume, and the Supreme Court has upheld the right of Congress to establish this standard, in spite of the admission by the Federal attorneys that 2¾ per cent beer was not intoxicating. Of course, another Congress can change the standard so that the effect of this decision will be to keep the question constantly in politics!

This is the first country to experiment with the national prohibition of all alcoholic beverages. It must justify itself very soon, or there will be demand for a change of method so general and insistent, that the law will *have* to be revised. The danger is that the reaction may swing the pendulum too far the other way. The matter is one which responsible statesmen and publicists should study with the greatest care. But even statesmen and publicists may readily go astray when they attempt solutions based on merely individual knowledge. It is more than ever obvious that the whole liquor question should be subjected to the closest study by a body of experts. As the matter has now become one chiefly of National

concern, a Federal Commission of Inquiry would seem to be a logical creation. That the evidence gathered and the recommendations made by such a body would be of immense value, can scarcely be seriously disputed.

Let it be understood in conclusion that the brewer should no longer be considered as a militant factor in the situation. The business which he felt bound to defend in the past, has been destroyed by the Eighteenth Amendment, the Volstead act and the decision of the Supreme Court to which he bows, as do all good citizens. He can not attempt to direct the forces which are now organizing to secure political action, for his presence in that field would be resented—perhaps justly—and, conceivably, might be fatal to the movement. This number of the Year Book, therefore, is not to be regarded as a plea on behalf of a trade, but is offered to the public in the hope that its information may be of some value and its suggestions of some assistance in the rightful solution of a great problem and the advancement of the cause of temperance and morality.

This issue of the Year Book has been delayed in order to include the full record of the legal proceedings in regard to the Eighteenth Amendment and the Volstead act.

HUGH F. FOX.

DEVELOPMENT OF THE BREWING INDUSTRY

Until a few months ago, the oldest business concern in the country in point of continuous existence, was a malting company located in one of our large Eastern seaboard cities. This indicates the antiquity of brewing in America. The first settlers in Virginia and Massachusetts brought treasured recipes for making ale after the fashion prevailing in England, and as farms and plantations were established, the brew-house became a feature of many, just as it was in the rural districts of the mother country.

For many years ale and porter were almost the only malt beverages generally known in the United States. Here and there a small group of immigrants from Germany had set up breweries and made beer which required a period of ripening at a low temperature to reach perfection. This process known as "lagering" gave its name to the product. The only large lager beer establishments in the first half of the Nineteenth century were in the larger cities, and even these were inconsiderable in size compared to present day plants.

In 1848, and the years following up to the Civil War period, there was an enormous German immigration to the United States. The newcomers, for the most part, had been associated with the battle for liberal institutions in their home country and this having failed, they had come to America to find freedom for themselves and their descendants. Naturally in such circumstances, the brewing of lager beer took on a much more important aspect, for they had not forgotten all their tastes and customs in coming to these shores. Moreover the interest manifested by these lovers of liberty in the institutions of America and the valuable contributions they made to our civilization in this critical and formative period, commended them to the older inhabitants and served to give many of the dishes of their table, and their beverages, something of a vogue. Conse-

quently lager beer began to become popular among native Americans.

In 1862 the United States Brewers' Association was organized. There were trade reasons for forming that body, but the principal object was to call the attention of the government, then in the throes of a civil war, to the revenue possibilities of a tax on malt liquors. The suggestion emanating from the new association was speedily accepted by the Federal authorities and the brewers were of great assistance in aiding the government to determine the most practical way of levying the tax. In Great Britain the excise tax on malt liquors was determined by the gravities of the beer turned out. In Germany the tax was levied upon the quantity of the malt used in each brewing establishment. Both of these taxes had weak points, for they required among other things, a large number of collection officials. Upon advice of the American brewer, the government levied a tax upon output; that is to say, each barrel of fermented liquor, whatever its specific gravity or whatever the amount of material employed, was required to pay a certain sum into the treasury in the form of a stamp tax. This beer tax, which was one of the fiscal props of the government from the moment of adoption up to the time National Prohibition came into effect, proved to be the simplest and cheapest to collect of any impost levied by the federal authorities.

Beer continued to grow in popularity during this period, and it proved a welcome beverage to the soldiers of the Union Army whenever they could obtain it. There is official testimony to the effect that soldiers in the camps who were able to get beer regularly suffered less from the diseases of military life than did their less fortunate brethren in arms. Necessarily also there was less drunkenness among such soldiers than among those by whom whiskey and other strong drinks were obtainable.

For a decade or so after the Civil War, lager beer, while fairly well known to the inhabitants of the cities, was still scarcely heard of in country districts. Breweries had to be conducted in the old fashioned way, their cellars or lager rooms cooled with huge quantities of ice and transportation in warm weather was practically impossible. Hence practically the only lager beer drinkers were people

in the cities or those who chanced to live in small towns in which groups of the German born had set up small breweries.

With the invention of refrigerating machinery and the discovery of pasteurization, the lager beer business took on an entirely new phase and entered upon an enormous development. It was now possible to make lager beer at all seasons of the year, and by employing pasteurization to insure its keeping under almost all conditions. Each brewery became potentially at least ten fold as large in the matter of output as before, and communities which had never seen a lager beer sign, now enjoyed the choicest products of the best plants. An export trade sprang up and American lager beer was sent all over the world, selling in competition with the most famous brands from other countries. Through pasteurization, the American brewer found it possible to reduce the alcoholic content of beer and to turn out a light sparkling beverage peculiarly suited to the domestic palate and practically non-intoxicating. This quality, together with the tonic and food character of the beverage, helped to enhance its reputation and extend its growing popularity. In many places beer supplanted whiskey and other strong liquors and its effectiveness in reducing drukenness and kindred evils was freely recognized by students of the drink question. Under such circumstances the sales speedily reached such a point as to warrant description of beer as the National beverage of America.

The growth of the business in ale and porter, while not as rapid, also reached large proportions. With the development of commerce and the improvements in transportation, the farm brewhouses had gradually disappeared. In their place came commercial ale breweries, some of which attained large trade and great size. Ale and porter, from the earliest settlements, had always found much favor in the New England States, possibly because of the climate of that region. There were large sales also in such Atlantic seaboard cities as counted among their inhabitants large numbers of persons hailing from the British Isles. In many of these cities the brewing establishments turned out both ale and lager to meet the demands of their patrons.

In other sections of the country and particularly the Middle West, the beer trade was confined almost exclusively to lager.

Gigantic establishments sprang up here and on the seaboard, shipping their products all over the country and indeed to many foreign lands.

"Steam" beer as it was called had its greatest vogue in California. It was a quick fermentation beverage, not capable of transportation, and resembling lager beer somewhat in its sparkling quality and taste.

The modern process of making beer involved the most scrupulous cleanliness at every stage. The hops used for imparting flavor were carefully inspected and subjected to high temperatures after picking, thus destroying all organic life, and then baled under enormous pressure and wrapped in packages that were not opened until they were ready for use. The barley was carefully screened, so that not merely impurities but also imperfect grains could be removed and malted in specially designed rooms at high temperature. Then the sprouts engendered by the process were buffed off by friction machinery, and the malted grain ground and securely packed. Every drop of water used in a brewery was sterilized and even the air in certain departments subjected to the same process in order to prevent the entrance of wild yeast or other contaminating elements. The great kettles in which the brewing was done, the huge glass-lined tanks in which the liquid was "lagered," the pipe lines and the bottling appliances, even the walls, were all made thoroughly clean after each operation. The brewery was always a show place on account of these features, and the frequent statement of experts that brewing was the most hygienic process employed in turning out a food product was thoroughly deserved.

What might have been the fate of the beer industry if it had not been associated with the sale of spirituous liquors, it is now idle to speculate. The professional prohibitionists, however, were always able to point out that beer was one of the beverages sold in establishments where whiskey was also obtainable, and they made no discrimination in their warfare between the non-intoxicating alcoholics and those which were admitted to produce drunkenness. Despite, however, the prohibition wave and the increasing number of "dry" States, beer long continued to increase in popularity. The

banner year was that ending June 30, 1914, when a total of 66,189,-473 barrels was turned out by American brewers.

The Federal Census of manufactures taken in 1914 showed 1,250 separate brewing concerns with a total capitalization of $792,914,000 and a product valued at $442,149,000 for the year. There were 75,404 persons engaged in the industry, which ranked sixth in the country in point of capital involved and eleventh in point of value of product.

Trade disturbances produced by the war and the regulations which were adopted following the entry of the United States into that conflict, sharply reduced the output of beer, which was finally checked entirely by the passage of the Volstead Act.

THE ANTI-SALOON LEAGUE OF AMERICA

Ohio has been the scene of many interesting social experiments and political phenomena and it was perhaps in the natural order of things that the State which witnessed the dramatic rise and progress of the crusade in the early seventies, resulting in the formation of the Women's Christian Temperance Union, should give birth to the Anti-Saloon League of America. This took place at Oberlin, a town theretofore known to fame as the seat of a large Methodist Episcopal College, in 1893. The organization was known originally as the Ohio Anti-Saloon League. An association having a similar title formed in the District of Columbia, a few months later, issued a call for a National organization. This was responded to by the Ohio body, and the National Anti-Saloon League, soon renamed the Anti-Saloon League of America, was the result.

The founder of and prime mover in the League was the Reverend Howard Hyde Russell, lawyer and clergyman, who became National Superintendent of the amalgamated body. In the selection of a title, in the scheme of organization and in the general method adopted for operation, those directing the new movement exhibited great shrewdness and knowledge of human psychology. The name * was calculated to appeal to those large classes of citizens, who eschewing prohibition as a remedy for the drink evil, and perhaps even defending the personal use of liquor, had come to regard the American saloon as an abomination. The sympathy of practically all of this class and the active support of not a few was gained by the impression which prevailed during the early years of the League that the end of drink itself was not the object of the movement; that the habits of the individual were not to be interfered with, but that the extirpation of the American drinking place was the sole aim.

* It would seem that the name was not original for an Anti-Saloon League of Massachusetts had been organized some years before the Ohio body sprang into being but had come to an early death.

The scheme of organization might well excite the envious approval of an Oriental despot. Its distinguishing feature was the absence of any membership except the official personnel. The State bodies which were self-elective and self-perpetuating, chose from their own number representatives of the National Board of Directors, which was empowered to choose a President, (12) vice-presidents, a secretary, a treasurer and a general superintendent. This board was also empowered to choose an associate general superintendent, a general manager of publishing interests, a financial secretary, a legislative superintendent, an assistant general superintendent and an attorney upon the nomination of the executive committee. As the executive committee was to be named by the Board of Directors, it may be conjectured that its nominations would be agreeable to the latter body. A provision in the League Constitution called for biennial conventions at which recognition should be given to persons appointed as delegates by "local churches, Sunday Schools, Gideons, Young People's societies, temperance organizations, Y. W. C. A. and Y. M. C. A. or district or annual synods or conventions of a religious body or by any State Board of Trustees or State Headquarters Committee or any other organization coöperating with the State League." No machinery, however, was provided in the Constitution for taking or making effective the votes of such delegates and it is apparent that their function was intended to be entirely ornamental, the determination of all matters of policy and method and other important questions being absolutely in the hands of the all-powerful junta at National Headquarters.*

The control of the central body is, however, even more strikingly illustrated in the provision of the Constitution relating to amendments. These, it was provided, could be made by any biennial meeting by a two-thirds vote of the members of the Board of

* The National body even controlled for all practical purposes the State bodies. A State League could choose a State Superintendent (its chief official), and fix his salary, but this official could not officiate for longer than three months or draw salary for a longer period unless within that time his appointment and rate of pay had been ratified by the Executive Committee of the National body. In the event of a disagreement, the matter was to be adjusted by three members of the Executive Committee of the State League and three from the National Board of Directors. Of course such a committee could be relied upon to reflect the view of the national body.

Directors present, upon recommendation of two-thirds of the Executive Committee or in the absence of such recommendation, by a three-fourths vote of the Board. Only 24 hours' notice was required of an amendment.

It will be recognized that this machine was admirably adapted to the purposes which the League intended to forward. While the League claimed to represent the churches, the latter were, as has been seen, without voice in the management, and were calculated to furnish votes at general elections and to pay the expenses of the autocracy purporting to act in their name. Superintendent Russell, at the very outset, evolved a scheme, doubtless based upon his pastoral experience, of raising revenues from church members by means of a monthly pledge system, and this, ere long, yielded gratifying returns.

Many State Leagues were speedily organized and these conducted operations in perfect harmony with the national body.

As to methods, the League frankly avowed at the outset that it intended to go into politics. It called itself "non-partisan" or "unpartisan," but it speedily developed that this meant that it would give support to whatever candidate or party it felt would go further in supporting its program. Influencing blocks of voters, greater or smaller, in almost every section, the League was able to exercise the balance of power in many localities. Even in places where it could not turn elections, it was still able to give candidates "trouble" of a kind that they wished to avoid and thus it was able to get promises of support in quarters where surface indications were not favorable to its aims.*

At first, as was natural, the League worked within the States most of which possessed local option systems. It would appeal

* In many sections, indeed, party leaders had come to understand that before they could launch the candidacy of any man for a legislative office with any assurance of success, they must needs first make sure that his candidacy would not arouse the active opposition of the Anti-Saloon League. The thousands of political graves which were to be found in almost every State of the Union due to the active work of the League, had come to be a constant and wholesome reminder to the political leaders everywhere that this new movement, backed by the Christian citizenship in the counties, cities and villages of the several States had come to hold the balance of power wherever temperance issues were involved in political campaigns. (Cherrington, "History of the Anti-Saloon League"; 1913, The American Issue Publishing Company, Westerville, Ohio.)

to the general sentiment in favor of home rule, and the general prejudice against the saloon, in urging the voters of municipalities to drive out the licensed drinking places from their towns. Having "dried" up a sufficient number of towns in this way the League would then appeal to the Legislature for a county-option law, which would enable the voters of a county as a whole to "dry" up those towns within its borders which obstinately preferred to remain "wet" despite the efforts to redeem them. That such a policy involved a departure from the principle of home rule, advocated by the League in the beginning, involved no embarrassing explanations. The Anti-Saloon League has never bothered about consistency and has never troubled to make apologies.

With a sufficient number of "dry" counties in a State to make a show of justification, would come a demand for State-wide prohibition. If the League leaders felt that the majority sentiment was with them they would make a virtue of insisting that the voters be allowed to decide the momentous question by referendum.

If, on the contrary, the majority sentiment was felt to be hostile or doubtful, the representatives of the League found no objection to having the Legislature force prohibition upon a reluctant constituency. Owing to the peculiar method of electing legislatures whereby the rural voter who is generally "dry" controls the law-making body in most of the States the League succeeded in securing prohibition in a number of Commonwealths, wherein the issue would have been at least doubtful if decision had been left to the electorate.

It was not until the Twentieth Century was well advanced that the League began to pay much attention to Congress. By this time the South had been largely "dried" up and a number of the Western States had declared for prohibition. In 1913 the League came out for National prohibition and in the following year the Hobson resolution received a vote in the House of Representatives that surprised enemies and neutrals as much as it probably pleased the prohibition propagandists. In securing control of Congress, the League employed the tactics which had enabled it to dominate State Legislatures. A National Legislative agent with a force of subordinates was appointed to infest the lobbies of the Capitol in Washington. Senators and Representatives who refused to do the League's bid-

ding found they had to face bitter fights and personal abuse in party primaries and at general elections. When an Anti-Saloon League measure was pending on the calendar, the desks of lawmakers would be deluged with "form" letters or telegrams from the "folks back home." In 1917 the League was ready to try again and National Prohibition was submitted by Congress to the several State Legislatures by a vote of two-thirds of the members present of both houses.

The political activities of the League were not confined to legislation, constitutional amendments and elections. Many other fields covered by Government were at times invaded by the organization. Its attorneys were always on the outlook for a law suit involving liquor, in order that they might obtain leave to file briefs as amicus curiae (friends of the court). They were also frequent in their attendance upon city excise boards, where they often led remonstrants against the granting of particular licenses. If the President or the Governor of a State contemplated the appointment to office of some man who did not believe in prohibition, the League would utter vehement and sensational protest, even though the position in view had no bearing upon or jurisdiction of any phase of the drink question. Having put prohibition "over" in a State the League invariably dictated the terms of enforcement statutes, often named the enforcement officers, and organized bodies of citizens as volunteer informers or enforcers. The complications arising from such manœuvres can be imagined.

Many of the measures taken and courses pursued by the Anti-Saloon League may have seemed of doubtful worth at the time. But their effect in yielding material for propaganda, probably demonstrated their value. Upon propaganda the organization laid great stress from the start and to it devoted much of its energy and material resources. All was grist which came to this mill. A national organ was early established and each State League as it was formed began the issuance of a similar sheet. In time there was established at Westerville, O., which became the National headquarters, a mammoth publishing plant from which the official newspapers, both State and National, the leaflets or dodgers, pamphlets, posters, books, annuals, and a mass of miscellaneous matter, poured

forth in an unceasing stream. In addition the regular newspaper press was deluged with statements from State Superintendents, or other officials.

The relationship of the League to the churches has always been difficult of exact and succinct description. It started upon the assumption that it could rely upon the membership of certain denominations for unfailing support in matters political and generous contributions of money, and this assumption was abundantly justified, as has been seen. Soon the League was proclaiming itself as "the church in action against the saloon" though the churches were allowed no voice in its policies or performances, and though the communions which did give it support did not represent (and do not represent now) anything like a majority of the church membership of the United States. But over those churches, into which the League was permitted to penetrate, like the camel's head of Scripture, it came to exercise year by year, more despotic control. Those ministers, who, while possibly favoring prohibition nevertheless doubted the advisability of giving free entree into the pulpits of Anti-Saloon League exhorters, soon found that they had raised up trouble for themselves. The League officials in such emergencies did not hesitate to employ the arts that political experience had made familiar to them, and the minister who was deaf to cajolery found himself obliged to meet stronger methods. Many yielded. A few who kept up the fight were actually obliged to sever their relations with the communion which they had served, and, if they desired to continue as ministers, to organize and conduct free churches. In the course of time "Anti-Saloon League Sunday," was regularly observed each year by several denominations and the churches left open to the workers of the Anti-Saloon League, whenever they desired to enter.

The finances of the Anti-Saloon League have also been the subject of curious conjectures. With many members of certain churches contributing regularly under the pledge system, with the handsome sums that have been given at frequent intervals by "captains of industry" and other large employers who had been persuaded that without drink their workers would be more efficient or that having the gad fly of prohibition to annoy them, they would

not worry so much about better wages, improved shop conditions or other matters of social and economic justice; with the special sums raised at conventions or other great gatherings or in particular campaigns, and finally with the legacies from the faithful which from time to time roll into the treasury of the League, like ripened fruit from sedulously cultivated trees, the aggregate revenues must be enormous. It is impossible to gain much information even from those financial reports prepared for the scouting of the inner circles. One which was recently presented to the Executive Committee showed pledges amounting on the average to more than $1,000,000 per year for five years for certain specified purposes. Apparently this did not cover all revenues or promises to pay to the National organization or deal with the receipts or pledges of money to the State bodies. It is necessary to comment thus cautiously upon financial reports of the Anti-Saloon League, because of the uncertainty as to what they cover.

Soon after National prohibition became effective in this country the Anti-Saloon League announced its intention of raising some $28,000,000 in a lump sum, about half of which was to be expended in converting the rest of the world into a Sahara and the balance to be used in aiding enforcement in the United States. But this audacious proposition proved too much even for those who had given the organization whole-hearted support in previous years. The initial "drives" which were inaugurated in the Southern States with formidable machinery and glittering galaxies of distinguished names came to naught and in one section unpaid bills resulted in law suits. Apparently this reversal in the South caused the abandonment of the project, at least, temporarily, for it immediately dropped out of public sight everywhere. Presumably, the emissaries sent from the Anti-Saloon League to Great Britain and other European countries, whose performances did so much to increase the feeling of irritation at the United States, growing out of the unsettled problems of the Great War, were paid out of funds previously collected.

THE HISTORY OF NATIONAL PROHIBITION

National Prohibition is by no means a new idea. More than half a century ago it had been suggested and in 1876 a joint resolution proposing it to the States was introduced in the House of Representatives at Washington by Henry W. Blair, of New Hampshire. Though his devotion to prohibition as a principle was almost fanatical, Mr. Blair was nevertheless a man actuated by a strong sense of justice and extreme conscientiousness. These qualities were evinced in his original resolution, which in that respect differed markedly from later proposals put forward in the name of righteousness and morality.

In the first place, Mr. Blair's measure applied only to the stronger drinks—distilled spirits, or other beverages which were compounded thereof or fortified therewith. The exclusion of beer and natural wines from the forbidden categories was a candid acknowledgment of their relative harmlessness. It would be too much, of course, to say that Mr. Blair favored their use, but it seems altogether fair to suggest that he recognized that the continuance of their manufacture and sale would not harm, but rather advance, the cause of temperance and sobriety which he was seeking to serve.

But Mr. Blair's resolution went much further. He did intend to wipe out the traffic in what may be properly termed "strong" drink, but he was alive to the injustice of doing this in the summary manner ordinarily involved in prohibition. Hence he provided that his resolution should not become effective until 1900, or if not ratified until after December 31, 1890, should not be operative until ten years after ratification. In other words, a maximum period of something like two-score years and a minimum of at least ten, was provided in order to permit those affected an ample opportunity to wind up business and adjust themselves to new conditions.

This was not exactly compensation for those compelled to give up a lawful calling, but it was a distinct recognition of the fact

that they had some rights which were deserving of respect. Mr. Blair's own comments upon the National prohibition proposal in its legal and constitutional aspects, would scarcely make welcome reading for the ruthless prohibitionist of to-day. "The Constitution," he pointed out, "applies to trades, occupations and rights of all kinds as it finds them, and protects whatsoever by express provision or necessary implication it does not destroy. In other words, there being nothing in the Constitution referring to the traffic in alcoholic beverages, either domestic or foreign, all legal presumptions are in its favor, just as they are in favor of any other existing and regular business, and the National powers, legislative, judicial and executive, are and will be in its favor until their action is reversed or modified by laws which may be properly enacted under the Constitution as it is or shall become by changes made by the people in the Constitution itself and by statutes thereafter enacted by Congress in accordance with such Amendments of the fundamental law. Property subject to taxation is entitled to protection and cannot be destroyed unless it be done by express authority of law, and by due process of law."*

Surely a far cry from present doctrines of summary destruction!

The Blair resolution got no farther than the introductory stage. About five years later United States Senator Preston B. Plumb, of Kansas, proposed another National Prohibition amendment to the Constitution. It was modelled upon the prohibition article in the Kansas constitution which had just been adopted, and lacked the qualities of discrimination and justice evinced in the Blair measure. It made no progress in Congress. In 1887 Mr. Blair made his second effort to secure National Prohibition by means of a resolution introduced in the United States Senate, to which body he had been translated. But this time he had fallen under the influence of some professional prohibitionists and his proposed amendment exhibits their characteristic lack of scruple and discrimination. Not merely the strong drinks but all alcoholic beverages were to be put down and those engaged in the traffic instead of having a reason-

* Cyclopedia of Temperance and Prohibition; New York, Funk & Wagnalls, 1891.

able time after ratification in which to wind up their affairs, were to be wiped out instanter without "benefit of clergy."

This resolution was reported out of the Senate Committee on Education and Labor, of which Mr. Blair was chairman, but got no farther.

For many years after this, little was heard of National Prohibition. In 1911, however, the question of repealing the prohibition article in the Constitution of Maine was submitted to the voters of that State. Among the many speakers who were sent into the State by the Anti-Saloon League and allied organizations, was Richmond P. Hobson, at that time a Representative in Congress from Alabama. Maine was only saved for prohibition after an experience of half a century with that system by a few hundred votes; indeed the charge was made that returns from remote districts were deliberately held back and "cooked" in order to show a majority against repeal. Upon his return to Washington in December, Mr. Hobson introduced a resolution proposing a Constitutional amendment forbidding all alcoholic beverages throughout the United States. Whether or not the closeness of the Maine result prompted this step, it is impossible to say.

In the fall of 1913 the Anti-Saloon League declared formally for National prohibition and at the beginning of the session of Congress that winter, resolutions to that end were introduced by Senator Sheppard, of Texas, in the Senate, Mr. Hobson in the House of Representatives and others. The Hobson resolution was reported out of committee, placed on the House calendar and by special rule made the order of business in December, 1914. Mr. Hobson had introduced no less than nine resolutions providing for National prohibition, but the one considered by the House was so framed that instead of prohibiting all *alcoholic* beverages, it was directed only against *intoxicating* drinks. It was well known that some of the contributors to prohibition funds were manufacturers of so-called "soft" drinks which contained greater or lesser proportions of alcohol. Obviously these gentry could not continue in business if alcoholics were to be banned.

The Hobson resolution failed of a two-thirds vote in the House of Representatives and consequently could go no further for the

moment. The fact, however, that it had received an actual majority of the votes cast, gave the prohibitionists great prestige and encouraged them to redoubled efforts. One of the ways adopted by them to win public support, was to circulate on a scale theretofore unparallelled, a speech by Hobson made in the House of Representatives entitled "The Great Destroyer" which was an ingenious if unveracious attempt to describe the effects of alcohol upon the human system. Letters were sent out by the thousand on the letterheads of the House of Representatives inviting contributions for printing and as the funds began to pour in, the speech was sent through the mails at Government expense to millions of citizens throughout the country. Hobson himself admitted in a statement before the Senate Committee on the Judiciary early in 1914 that "with the coöperation of friends" he had sent out over 2,000,000 copies of the speech and also about 1,500,000 letters. The speech continued to circulate long after Hobson had been repudiated by the voters of his Congress district and indeed after his term had ended. Such a gross abuse of the franking privilege had never been known before and many leading newspapers in the country indulged in scathing comments. But, as usual, the prohibitionists did not trouble even to offer excuses.

Naturally the struggle for National prohibition was not allowed to flag. The Anti-Saloon League became more prominent than ever before in Congressional fights and no district in which there was a remote hope of controlling candidates, either in primaries or elections, was neglected. The propaganda mill worked overtime. The accession of a number of States to the prohibition column gave fresh energy to the workers for that cause and the lobby designed to operate at Washington was overhauled and perfected in every detail. But actual battle was not joined again until 1917.

Perhaps a dozen measures proposing National prohibition in some form or another had been introduced in either house of Congress, but one for which Senator Morris Sheppard, of Texas, stood sponsor, was selected for action. As reported from the Senate Committee on the Judiciary, it resembled the Hobson resolution of previous years in that it applied to intoxicating and not merely alcoholic liquors, though it was more sweepingly drastic in its provisions.

Even the commanding position now secured by the Anti-Saloon League might not have sufficed to push through the Sheppard resolution had the organization not yielded upon certain points. Many of the lawmakers who were disposed to favor submitting National prohibition to the State Legislatures, revolted at the idea of immediate destruction of the values invested in the liquor industry in case of ratification. To meet their views the proposed amendment was changed so that it would not be effective until one year after the date of ratification. It was also provided that a sufficient number of States must ratify within seven years of the submission of the proposed article, otherwise it was to be of no effect.

Possibly, however, the circumstance which brought most of the waverers into line was an argument of the Anti-Saloon League, which at the same time held forth something of a promise. A Senator or Representative, so the League lobbyists urged, need not be convinced that prohibition was right or practical. The resolution did not require him to believe this. By voting for it, he was not doing violence to his own conviction, but was simply putting the issue "up" to the States and he could conscientiously wash his hands of the whole matter. With this question out of the way, Congress would, of course, not be bothered with other prohibition measures and prohibition pleaders.

Now Congress had been bothered for years by prohibitionists and prohibition measures and even while the Sheppard resolution was pending, had seen the unseemly manner in which the Anti-Saloon League had fastened upon important war bills, delaying them and threatening them with defeat unless its demands were met. Doubtless the prospect of relief from these disloyal tactics was inviting. At all events the Sheppard resolution passed the Senate on August 1, 1917, and going to the House of Representatives was in due time placed upon the calendar in substitution for a resolution originating in that body and reported by the Judiciary Committee thereof.

In the House another change was made in the Sheppard resolution. This was the adoption of the unique and now-famous clause whereby to the Congress and the States was given "concurrent power" to enforce the article by appropriate legislation. This

amendment was offered by Mr. Steele of Pennsylvania, for the express purpose, as stated on the floor of the House, of giving to the States the power to define intoxicating liquor and to provide their own machinery for enforcement. This concession to the States rights sentiment possibly influenced some votes. As thus amended the Sheppard resolution passed the House on December 17, 1917. On the following day the Senate accepted the amendment and the act of submission was, in a parliamentary sense, complete.

The grip held by the Anti-Saloon League over the State Legislatures was never better illustrated than in the manner in which these bodies obeyed the command to ratify. In vain were suggestions made that the law-making bodies were without instruction from the people on this most important question. In vain were efforts made to have the sentiment of the electorate tested by referendum voting. In all but three States of the Union, the machinery of the prohibition autocracy worked smoothly, mercilessly and swiftly and scarcely a year elapsed after the proposed article was submitted when it was announced that the requisite number of Legislatures had acted favorably and National Prohibition had been imbedded in the Constitution of the United States.

The hope which had been entertained by members of Congress that with the Constitutional amendment out of the way, they would be left free to devote themselves to war legislation was not realized. Far from abating their efforts, the "dry" lobbyists grew more aggressive and importunate. The Food and Fuel Control law, passed in August, 1917, had the effect of stopping the further production of beverage spirits, but left the curtailment or prohibition of the use of foodstuffs in the manufacture of wine and beer in the President's discretion. Efforts were made under the leadership of the Anti-Saloon League to force the President to decree prohibition of the beverages by rousing popular clamor. As these failed, it was decided to take away the President's discretion and decree prohibition under the guise of a war necessity. An amendment, clearly in violation of the parliamentary rules of both houses, was engrafted upon an appropriation bill for the benefit of the Department of Agriculture, putting the country on a dry basis on July 1, 1919. The measure was held up for months by a squabble between

House and Senate, but finally became law on November 21, 1918, ten days after the signing of the armistice had brought the war to a close. As the bill carried highly necessary appropriations, the President had no choice but to sign it.

Here, then, was war prohibition enacted after the actual ending of the war and not to come into effect until two-thirds of a year later, based upon a plea of war necessity. The situation was sheerly grotesque, as was apparent to all except prohibitionists, but it was felt that formal peace would not long be delayed, and hence that this sample of Anti-Saloon League bigotry would not remain in effect upon the statute books. But the negotiations at Versailles took longer than was anticipated and accordingly in his message to the Congress, meeting in extraordinary session in the latter part of May, 1919, the President recommended, among other things, the lifting of the ban upon beer and wine.*

Congress was still firmly in the clutch of the Anti-Saloon League and failed to act upon the President's suggestion. Instead it began work upon the measure which was to become internationally infamous as the Volstead Act, taking its title from its author, the chairman of the Judiciary Committee of the House of Representatives. It may be explained that the brewers of the country had been manufacturing during the war and afterwards a non-intoxicating beer, containing not to exceed 2.75 per cent of alcohol by weight. This standard had been fixed by the President himself, under the authority granted to him by the Food and Fuel Control Act. Inasmuch as the Commissioner of Internal Revenue had announced his intention of applying the War Prohibition Act to all

* The demobilization of the military forces of the country has progressed to such a point that it seems to me entirely safe now to remove the ban upon the manufacture and sale of wines and beers, but I am advised that without further legislation I have not the legal authority to remove the present restrictions. I therefore recommend that the act approved November 21, 1918, entitled "An act to enable the Secretary of Agriculture to carry out, during the fiscal year ending June 30th, 1919, the purpose of the act entitled 'An act to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products' and for other purposes", be amended or repealed in so far as it applies to wines and beers.—Message of the President read to Congress May 20th, 1919.

beverages containing as much as ½ of 1 per cent of alcohol, many brewers were applying to the courts for injunctions against the United States officials and in other ways were seeking to protect their lawful business.

The Volstead act was originally designed to provide the means and prescribe the way of enforcing the Eighteenth Amendment which had meantime been declared to be formally ratified. But the Anti-Saloon League had other objects in view. Hence the act was so drawn that an entire chapter thereof, known as Title I, provided for the continuance of war prohibition and defined standards for intoxicants in accordance with the purely arbitrary ruling of the Revenue Commissioner. The act, monstrous as it was, was forced through the House and Senate with relatively little discussion.

Upon October 27, 1919, President Wilson vetoed the measure in a special message, in which he said:

The subject-matter treated in this measure deals with two distinct phases of the prohibition legislation. One part of the act under consideration seeks to enforce war-time prohibition. The other provides for the enforcement which was made necessary by the adoption of the constitutional amendment. I object to, and cannot approve, that part of this legislation with reference to war-time prohibition.

It has to do with the enforcement of an act which was passed by reason of the emergencies of the war and whose objects have been satisfied in the demobilization of the army and navy, and whose repeal I have already sought at the hands of Congress. Where the purposes of particular legislation arising out of war emergency have been satisfied, sound public policy makes clear the reason and necessity for repeal.

It will not be difficult for Congress in considering this important matter to separate these two questions and effectively to legislate regarding them, making the proper distinction between temporary causes which arose out of war-time emergencies and those like the constitutional amendment of prohibition which is now a part of the fundamental law of the country.

In all matters having to do with the personal habits and customs of large numbers of our people we must be certain that the established processes of legal change are followed. In no other way can the salutary object sought to be accomplished by great reforms of this character be made satisfactory and permanent.

For a moment the prohibitionists were taken aback, but only for a moment. A count showed that they could rely upon two-thirds of the members present, of the House, and disregarding the tacit understanding that action would be delayed for a few days, they took the unexampled course of forcing a vote upon the veto on the day of its receipt. The requisite two-thirds having been received, the bill was declared to have passed the House notwithstanding the President's objections. On the next day the Senate likewise yielded to the whip and spur of the prohibitionists and the Volstead Act took its place on the statute books under date of October 28, 1919.

THE VOLSTEAD LAW

A breach of public faith as flagrant and wanton, if not as dire in result, as the German violation of Belgium, was involved in the enactment of the Volstead law. It is shown elsewhere, that the Eighteenth Amendment gave a year's grace to those engaged in the liquor business. This provision was agreed to by the prohibition High Command when the proposed addition to the Federal Constitution was pending and it was in the view of those State Legislatures which went through the forms of ratification. It was urged in behalf of the original War Prohibition measure, that, though when it was enacted, hostilities had ceased and the country's enemies brought to their knees, the food needs of the world were still acute. But even such a flimsy excuse was lacking for that section of the Volstead law, which, enacted a year afterwards, continued prohibition on the plea of war necessity. Months before its enactment the President had advised the Congress that the food situation no longer demanded even those restrictions which had formerly been imposed. Moreover, when the Volstead measure reached him, he vetoed it in a message which clearly pointed out that such legislation was contrary to public policy and public interest, now that the war emergency had passed. In forcing the overriding of the veto, the Anti-Saloon Leaguers and their allies were not merely availing themselves of a long-awaited opportunity to put an affront upon the President of the United States; they were also compelling the nullification of a solemn covenant by the chief law-making body of the country. This amazing performance did not spring from unpremeditated impulse; it was the result of calculation and deliberation. The history of the Republic reveals few instances of such pronounced perfidy and dishonor in high places.

The lesser iniquities of the Volstead law, applying chiefly to permanent prohibition under the Eighteenth Amendment, are being revealed from time to time as the machinery of enforcement is

put in operation. In the days when prohibition was being tried on individual States, it was customary to make the original "dry" laws relatively mild, proceeding to more rigorous enactments from time to time. But the Volstead law sprang full-armed from the Jovian forehead of the Anti-Saloon League, bristling with discrimination and oppression in almost every paragraph.

All beverages containing as much as ½ of 1 per cent of alcohol by volume, are defined as intoxicants by the Volstead law. No pretense is made even by those responsible for it, that this arbitrary standard is anywhere near the truth. As a matter of fact, liquors containing seven times as much alcohol have been demonstrated by the most conclusive scientific tests to be non-intoxicating and the Volstead rule, if enforced, would bar from the market, a large number of the recognized "soft drinks." The production of "non-intoxicating cider and fruit juices" at home is expressly permitted by the act, but nothing is said as to how these products are to be kept from fermenting and passing the ½ of 1 per cent mark. This provision is obviously inserted to deceive for it needs no law to make legal what is lawful. It may be suspected that the object of these provisions is not so much to prevent the production of intoxicants, as to destroy the large and growing business of the brewers in non-intoxicating beers.

The right of trial by jury is supposed to belong to Americans, as a heritage descending from ages before this hemisphere was discovered. It is indeed seemingly confirmed in the Constitution of the United States. But the Volstead law finds a way to ignore it, by providing for injunctive proceedings in the Federal Courts, where in trial, decision and punishment, involving the loss of property, will rest upon the inclination of a single judge.

The right of a person accused to be presumed innocent until his guilt is proven, is one of the cardinal principles of American jurisprudence, another heritage descending through the centuries. Under the Volstead act, the mere possession of liquor is a presumption of guilt and the burden of proof is shifted from the powerful Governmental Bureau, with limitless resources at command, to the individual who may lack friends or facilities to prove his innocence.

Vicarious crime is a novelty injected into American law by the

Volstead measure. A person who owns property which, under lease, or otherwise, is employed for the unlawful production, storage or sale of liquor, must prove to the satisfaction of the Court that this was without his knowledge. Otherwise, he may be stripped of his holdings to pay fines and other costs. Vehicles used in the illegal transportation of liquor are likewise liable to seizure and sale unless the owner can prove his innocence of the transaction.

The man of wealth living in a private dwelling may have his home stocked from cellar to garret and escape any annoyance under the Volstead act. The person whose scanty means compel him to live in a building which is in part used for some business purpose, may find his home invaded by a prohibition agent armed with a search warrant.

The physician who desires to administer liquor to save the life or restore the health of a patient finds his hands tied by embarrassing rules. He must keep elaborate records under forms devised by Federal officials and is forbidden to prescribe more than one pint of liquor for any one patient in ten days. Apparently no physician may carry a stock of liquor for emergency purposes, and administer to patients directly therefrom, but must write prescriptions to be filled by a pharmacist, who is likewise under rigid supervision.

The clergyman, who wishes to obtain wine for administration in the sacrament, likewise finds himself hedged about with elaborate regulations.

Almost ever since beer and ale became known to man, certain forms of those beverages without intoxicating qualities have been produced and used. It is now unlawful, however, to apply these names, as well as the name porter, to any drinks of this description. The crowning achievement of the Volstead act may therefore be said to consist in an expurgation of the dictionary.

There is nothing in the law which prevents the use of the terms root beer, birch beer, ginger beer or ginger ale, to brand beverages of that class. Indeed the regulations of the Internal Revenue Bureau expressly permit such use. But the drinks made from malt and other grains, must no longer be known by their accustomed names, even if they contain less than ½ of 1 per cent of alcohol, thus again illustrating the animus of the Anti-Saloon League towards the brewing industry.

PROHIBITION'S RECORD IN THE UNITED STATES.

It has ever been claimed on behalf of prohibition that it would reduce crime, poverty, and disease, and promote morality, prosperity, and industrial efficiency. These blessings, so it was asserted, were impossible of full realization when prohibition was established piecemeal by individual States, hence the argument for National prohibition under which the whole country would be dry and no part thereof could legally manufacture liquor which might be shipped into another section.

Nationwide prohibition, first under a war law and then under the Volstead Act, has been in effect since July 1, 1919, or a little more than a year at the time this is written. It is therefore possible to estimate some of the effects of country-wide prohibition by law.

At the outset, it may be stated that drunkenness of the kind which attracts the attention of the police and makes records in the magistrates' courts, has decreased. This is the testimony from many widely-separated cities and States. But it cannot be conceded that even this is entirely due to prohibition. A change in the customs of drinking whereby liquor is largely consumed in private homes and rooms might mean an actual increase in drunkenness, though it would largely escape the police records. The high prices demanded for drinks surreptitiously sold, also would have some tendency to decrease consumption thereof, but this could as well be the result of high taxation, for instance, as of prohibition, Lately a number of cities which reported decreases in arrests for drunkenness are now showing increases, indicating that the ways of "getting around" prohibition are becoming more widely known and more generally followed.

But while in many sections there are fewer arrests for drunkenness and jail populations have diminished, there has been no decrease in serious crime. This in reality has increased. In its issues of March 21, 1920, the New York *World* published almost a page

of telegrams from all parts of the country, the whole comprising a graphic summary of conditions which were accurately summed up in the caption "More Serious Crimes, Fewer Small Offenses Since Dry Era Began." Especially bad conditions were reported of Chicago, Kansas City, Omaha, Baltimore, Louisville and Portland, Ore. Most of the statistics in this survey were gathered from police sources. The recent raising of rates for burglary and theft insurance and for automobile insurance reflect unpleasant experiences on the part of companies dealing in those forms of protection. A straw which may show accurately whence the wind is blowing, comes in the form of great increases in automobile accidents and a surprising jump in the number of drivers of cars arrested for drunkenness. These are reported throughout the country.

Moreover new kinds of crime have been created by prohibition, such as are not commonly entered in local police records. The Federal Prohibition Commissioner gave out a public statement in July, 1920, to the effect that his office had caused upwards of 50,000 arrests during the few months of its existence. This impressive figure, however, does not indicate that the Federal authorities have more than scratched the surface of the field of crime created by the Volstead law. There can be no doubt whatever that "moonshining" or illicit distilling has spread from the Southern highlands, to which formerly it was confined, throughout the North, South, East and West, to populous cities and prairie farms, that smuggling of liquor at the ports and over the borders has reached enormous dimensions and that the home brewers of beer and the home-makers of wine are to be numbered not simply by the hundreds of thousands but actually by the millions.

On May 9, 1920, the Boston *Advertiser* published an interview with William J. McCarthy, Supervising Federal Prohibition Agent for that district, in which he proudly asserted that Boston was the "dryest" large city in the United States. In another part of the same issue the *Advertiser* published a long article under huge head lines showing the great increase in the violations of the prohibition law. Arrests for drunkenness were shown to have been 677 in February, 1920; 977 in March, and 1,333 in April. It was charged that all sorts of liquors were being manufactured, smuggled and

sold in violation of the law and sections of the city were depicted as positively infested with bootleggers and other illicit traders. The "kitchen bar," such a familiar institution in Maine under State prohibition, had found Boston and National prohibition a fertile soil, it was asserted.

In line with this exposé of conditions, the Boston *Herald* of July 25, 1920, published a three-column article by a special writer disclosing a vast and horrifying increase in the illicit narcotic drug traffic and a corresponding growth in drug addiction in the Massachusetts metropolis. The case is made all the stronger by the circumstance that neither of the journals mentioned has been anti-prohibition.

As it is in Boston, so it is in other large cities. New York magistrates report increases of crime under the "dry" régime, and hospitals filling up with victims of alcoholism. The East Side "moonshiner" has become a figure of the city life and so many places sell liquor that the local enforcement officer naively complains that public sentiment is against the law. In every section the press teems with accounts of violations.

The claim that prohibition promotes public morality in general certainly cannot be sustained in view of present conditions. No observer of current events can fail to note the general decline in social standards, the increasing looseness of the relations between the sexes, the indecencies of books and theatrical performances and other circumstances of a like nature. Much of this is justly attributable to the war, or rather results from the general relaxation after the intense strain of that great conflict. But prohibition cannot escape the charge that it has helped to bring all law in disfavor. When enactments of the Congress of the United States, our highest legislative body, are so extreme and so obnoxious as to be openly flouted everywhere, all law is brought into contempt and respect therefor diminishes among all classes.

The prohibitionists have been quick to seize upon evidences of business activity to support their claim that prohibition has promoted prosperity. Yet the shortage of buildings, the development of new manufactures, the demand for labor, the extravagant buying and the vast increases in the circulating medium have produced

similar conditions in other countries which have not adopted prohibition. There are financiers of ability and world-fame, who have seen fit to give warning that the present feverish condition is based upon false, not real prosperity, and that there must come eventually to all nations a painful period of readjustment. However that may be, it is manifestly absurd to claim for prohibition the credit for a situation directly and absolutely attributable to the World War.

That industrial efficiency would be increased by reason of prohibition was an argument which won over many employers of labor otherwise disposed to be against it. There is nothing in the present situation to bear out this claim, but much that would weaken it. The testimony of labor leaders is universally against it, but perhaps the most striking recent comment comes from the Rev. Charles Stelzle, one of the ablest of prohibition's advocates. In the course of an article on "Social Unrest," published in *The Outlook* (magazine) on June 2, 1920, Mr. Stelzle said:

The relation of the workingman to prohibition is undoubtedly one of the big questions that will have to be settled in the near future. While it is true that prohibition has been of great benefit to workingmen as a whole—and this is the testimony of many leaders of labor—nevertheless the coming of prohibition has resulted in a deep resentment on the part of the workers who feel that their beer and wine have been taken from them "while the cellars of the rich are stocked with all kinds of booze." The right to drink has become a burning question with workingmen.

Many employers of labor have for years been supporting the prohibitionists because they felt that the abolition of liquor would result in more sober workmen and that this would increase their output because of the larger number of days worked. No doubt this has been the effect of prohibition, but these same sober workingmen have become clearer-minded agitators of unrest because they not only think more keenly and more deeply about their jobs but also about their general economic prospects.

The Socialists have almost invariably stood for prohibition for this reason. Their contention has always been that workingmen don't think enough. So far as the emplowers are concerned, prohibition in the cities that I visited is not an unmixed blessing, for prohibition will undoubtedly result in greater radicalism.

Even had the worker gained in physical and mental efficiency—as Mr. Stelzle would seem to believe—this individual benefit would

be more than offset by the discontent and rebellion among the ranks of those who toil and which is unmistakably attributable to prohibition. No more damaging admission could be made by an advocate of the system or more damaging charge by an opponent than that it works for extreme radicalism.

The question of enforcement repeatedly comes to the surface in such a discussion. It is patent to the most casual observer that local and State authorities even in prohibition States have largely ceased their efforts to keep down violations of the law and are letting the Federal officers do practically all the work. These officials say that enforcement is a question of money and it may be expected that the next Congress will be confronted by demands for appropriations ranging from $50,000,000 to $100,000,000, to secure some measure of general compliance with the Volstead Act. A Congressman, whatever his predilections or impressions in regard to prohibition, may well hesitate before consenting to such enormous expenditures of the public money on such a doubtful experiment.

REGULATION *vs.* PROHIBITION—EUROPEAN EXPERIENCES

Human nature is much the same everywhere and every country has a drink problem of greater or less magnitude. It is a matter of common observation, however, that while the United States has proceeded to more drastic extremes than any other nation, many European countries have handled the question with less social friction, less destruction in values and more positive results in temperance and the lessening of alcoholic ills. It may not be amiss to glance at the situation in some European lands to ascertain why they have more nearly approached a solution of the problem than we.

A century ago Sweden was known as the "most drunken country in Europe." The Crown's monopoly of distilling had been surrendered owing to an overwhelming popular demand and the privilege of making spirits granted to every householder. Almost every house became a distillery and the whole population seemed debauched. Intemperance was rife and every disease, and other evils attributable to it, rampant. The consumption of raw spirits at one time reached 46 liters* per person per year. Then there was evolved the Göteburg system, named from the town in which it originated, whose chief feature consisted in permitting the sale of the lightest beer (containing not more than 2¼ per cent of alcohol by weight) without tax or license fee, of imposing moderate taxes and license fees for the sale of fermented drinks of ordinary strength and of monopolizing the sale of spirits so that the profits thereupon would be limited and moreover so that while they would not be prohibited they would be somewhat inconvenient to obtain. There were added to this system, the *motbok* or personal ration record and other refinements. Sweden rapidly became one of the soberest countries of the world.

* Equivalent to 49 quarts or 12¼ gallons.

Then, on account of the food scarcity caused by the war, Sweden felt it necessary to go to prohibition. This speedily demonstrated that there is a point beyond which human beings cannot be forced. Moonshining became common in all parts of the country and drunkenness and alcoholic disease increased heavily everywhere. The story is well told by Dr. Ivan Bratt of Stockholm in a recent number of the *American-Scandinavian Review*. Dr. Bratt, who is the author of the *motbok* system, says in part:

Let me give some figures illustrating first the effects of the system in normal operation and then those of the total prohibition forced upon us by circumstances.

In 1913, the year before the *motbok* was introduced, the amount of liquor sold "off" in Stockholm was 5,690,000 liters. In 1916, before any restriction went into effect, shortage of stock had reduced this to 3,500,000 liters, in other words from 16 to 8.8 liters per person. In 1917, the ban on domestic manufacture, owing to the necessity of conserving potatoes, combined with the blockade on importations to reduce the amount to 2.7 liters per person, and in 1918 this went down still a little further to 2.1. This was to some degree counterbalanced, however, by the tremendous quantities of wine imported from Austria-Hungary and sold without any restriction until the beginning of 1919, when the *motbok* system was extended to include wines.

The statistics on convictions for drunkenness are very significant. In 1913, the cases of drunkenness tried in the Stockholm courts numbered 17,696. In 1914, the number had decreased to 11,878; in 1915, to 11,323; in 1916, to 9,877. In 1917, when the amount sold on each *motbok* had to be reduced finally to 2 liters for three months (the normal maximum being 4 liters for one month), the convictions for drunkenness went down to 3,749, the smallest number known. In 1918, however, in spite of continued small sales, the number increased in a most alarming manner. I shall come back to this matter later.

The Central Hospital in Stockholm, where all cases of delirium tremens and other diseases of alcoholism are sent, treated in 1913, the year before the *motbok* system went into effect, 623 cases representing 584 different persons. These figures have been reduced year by year, until in 1918 there were only 130 cases representing 82 persons. But while the record for the whole year is better than ever before, the last four months show the same ominous change for the worse as the statistics concerning convictions for drunkenness. In the months from September to December, 1917,

the cases brought into the hospital were 6, 5, 5, and 5; in the corresponding months of 1918 they were 11, 16, 20, and 16.

The district physicians in Stockholm who give free treatment to poor people reported, in the year 1909 to 1918, an average of 22,000 cases annually. In 1918 the figure was 25,000. Before the introduction of the *motbok*, about 500 of the reported cases annually were chronic alcoholism, but in the years after the *motbok* system had gone into effect the figures sank to 318, 173, 156, 56, and 29. Before the restrictive system was enforced, about 24 cases in a thousand were reported as chronic alcoholism, but in 1918 only 1.1 cases in a thousand were due to this cause.

So we could go on multiplying examples of the benefit this method of regulation has brought the country. Even the increasingly drastic measures necessitated by the depletion of the stock during the war seemed to have only favorable effects up to the end of 1917. With the beginning of 1918, we began to feel the disadvantages of a restriction that was based on scarcity of goods and not on principle. The difficulties in the way of a private individual satisfying what he considered legitimate and moderate demands had then reached such a point that a *motbok* had a commercial value. When the price of a liter of spirits, in the trade between man and man, had risen to 50, 60 or even 100 kronor, one can hardly wonder that even respectable people fell into the temptation of selling illegally what they had obtained on their *motbok*. At the same time, the private distillation of brandy, which had been unknown in Sweden for the last seventy years, flourished again, so that apparatus were manufactured by the tens of thousands and were actually advertised in the newspapers. Alcohol for technical purposes, especially motor spirits, was purified for drinking in spite of all the precautions that could be taken against it. The result was that drunkenness and alcoholic diseases increased again to an appalling extent. Of the 130 cases of delirium tremens in the Central Hospital 112 were due to home distilled brandy or denatured spirits. In the fourth quarter of 1918, 1,166 cases of drunkenness could be traced to denatured spirits against only 56 in the fourth quarter of 1917.

The police have been powerless against this epidemic of crime and disease. They declare that it is not due so much to the consumers themselves as to the sharks who grow rich on distilling brandy and purifying denatured spirits for commercial purposes. It is the general opinion among those qualified to judge that, when the end of the war makes it possible to increase the rations to normal again, home distillation will practicaly cease, and the actions of those who try to make money on the weakness of their fellow-

men will be branded by public opinion as shameful and criminal.

Without wishing to draw too sweeping conclusions from the Swedish experience, I feel justified in looking with suspicion on total prohibition as a cure-all for the evils of alcoholism. It behooves us to consider soberly not only the question of whether it is necessary and desirable to use alcohol at all, but also the technical and psychological side of the problem, for instance the reaction of public opinion, the difficulty of dealing with crime when it appears en masse, and the ease with which prohibition can be exploited for private gain.

Leaving out of consideration those who are prohibitionists on principle, we in Sweden look on the legitimate trade in alcoholic liquors as an effective instrument, when correctly used, to curb the illegitimate traffic, to diminish the evil effects of alcohol, and to educate individuals as well as the whole people to a greater sense of responsibility. The experiment we have made and are still making has a claim to the interest of sociologists. Undoubtedly it will in the future yield still more information, and the conclusions from it should be drawn without prejudice.

The experience of Sweden must be regarded as very significant for, with its socially homogeneous population, its fixed habits and accepted traditions, prohibition should be successful there, if anywhere. Obviously, however, the present situation reflects the usual fate of attempts to force human nature beyond the point where it is willing to go, with the results that home distillation reappears on a huge scale, after many years of absence, that drunkenness and alcoholic diseases multiply tremendously and that the law is held in contempt by great masses of the population. Late advices from Sweden are to the effect that the reaction against prohibition is very strong and that the demand for a return to the system which increased sobriety and lessened economic and physical disorders so strikingly, cannot long be resisted.

Recent events in Great Britain should also prove highly illuminating. A country which speaks the same language as ours, enjoys the same literature, and clings to many of the same traditions, affords perhaps a closer parallel to our own situation than any other nation. The problem of intemperance in Great Britain, as every traveller knew, was very grave when the Great War broke out. In the early part of that conflict, the manufacture of muni-

tions, the transportation of troops and supplies, the building of ships, and countless other war activities were seriously impeded by drunkenness. Early in 1915 Parliament enacted a law which placed the whole matter of drink regulation in the hands of a so-called "Central Board of Liquor Control." This body was intended to operate only in the districts where munitions were produced, but as the term was construed very broadly, so as to include every sort of war supply, the jurisdiction of the Board soon extended over nine-tenths of the area of Great Britain and was imposed upon even a greater proportion of the inhabitants thereof. The regulations adopted by the Board need be only briefly rehearsed here. They included the abolition of treating, the requirement that all spirituous liquors be diluted to moderate strength before being served by the glass, that the sale of all intoxicants should be suspended except during very limited periods embracing the meal hours, that encouragement be given to those establishments which confined themselves to beer and the so-called soft drinks, that superfluous drinking places be abolished and that all others be required to conform to certain standards of decency and hygiene. Finally, in some sections, the Board actually opened public houses of its own, in none of which was there anything stronger than beer sold and in all of which facilities for proper recreation were provided to customers.

Before the war was over, the regulations devised by the Board had worked so thoroughly, that arrests for drunkenness had been reduced by something like 80 per cent, figuring from the last pre-war year. Other evils attributable to drink were reduced in corresponding proportion. Since peace has come to the world, and the Control Board's regulations have been largely relaxed, there has been an increase in intemperance in Great Britain, though the records show nothing like the number of cases which were dealt with in the ante bellum period.

Denmark, with the example before its eyes of Sweden, has undertaken an extensive study of the drink problem. A Temperance Commission which has been in existence for several years, is planning to come as a body or to send representatives to the United States to investigate the workings of prohibition at first hand. The

other prohibition countries, such as Finland, may also be visited. There is pending in the Danish Parliament a measure which, if adopted, would make drastic changes in existing conditions. Recently a remonstrance was presented to the Parliament on behalf of 102 labor organizations, with a membership of about 145,000. The petition protested against the suggested prohibition of the sale and serving of drink in barracks, factories and other places, but suggested that such service might be limited to the meal hours. It protested against the classification of beers containing 2¼ per cent of alcohol by weight as strong drink and suggested 4¼ per cent as a limit. In this connection attention was called to the fact that a minority of the temperance commission advocated a drawing of the line between non-intoxicating and intoxicating beverages at 3¼ per cent of alcohol by weight. It is also demanded that in local option voting a majority representing at least 51 per cent of the qualified voters shall be required to make a valid decision.

The Norwegian government, which was forced into modified prohibition due largely to war conditions, has recently rescinded the law which prohibited the sale and serving and transportation of beers containing more than 4.75 per cent of alcohol by weight.

Finland has been under prohibition since June 1, 1919. There was apparently a strong popular demand for the law which it is thought was due partly to the fact that when the country was part of Russia, the Czar's Government had repeatedly interfered with the attempt of the Finns to deal with this problem as they wished. However, since the law has been in force, violations have been very frequent. Smuggling, for example, has increased to such an extent that cable dispatches early in 1920 described it as a "national industry." As a consequence, sentiment against absolute prohibition is growing.

This sentiment was recently reflected in a statement given to the "Politiken," a newspaper of Copenhagen, by Prof. Matti Ayrapoa, of the Department of Odontology, University of Helsingfors. Prof. Ayrapoa said:

"I have formerly been a very ardent advocate of the prohibition law. It has, however, also in this case become apparent that theoretical speculations and practical life do not always agree. This

law is not in conformity with the sense of justice in the Finnish people, who consider it an insult to personal liberty, as through many generations we have been accustomed to decide ourselves, what we want to eat and drink.

"Infringements of the prohibition law are therefore not regarded as guilt by the people—on the contrary, rather. Smuggling of spirits and liquors is almost looked upon as a sport possessing all the exciting points of sport. Innumerable already are the stories of the tricks, with which the custom house officers and the police have been handled.

"And the number of entrants in this sport increases in an alarming degree, the more because it has proved to be very lucrative. The millions that formerly went into the treasury now disappear in the pockets of the liquor jobbers and the state further has to spend new millions for increase of the control of customs and the police force, and yet it does not help. It is practically impossible effectively to control a shore of a length like the Finnish with its multitude of small islands and rocks.

"Large quantities of spirits are secretly brought into the country and secretly sold, but of course the consumers have to pay for the risk—fancy prices, *i.e.,* 500 mark for half a bottle of cognac.

"Yet the worst is not that the spirit is smuggled into the country and that the treasury loses money. The moral harm is no doubt of still greater importance. It cannot be compensated with millions that a law-abiding people loses its faith in the inviolability of law.

"That the prohibition law was carried through is due to the fact that idealists built on false theories and that the question was used as means of propaganda in the struggle between political parties. The prohibition law has now been in force for about one year, and the result is more than sad."

Prof. Ayrapoa's views find ample confirmation in a statement recently put out by the Restaurant Keepers' Association of Helsingfors. This paper shows that the arrests for drunkenness in Helsingfors in the period immediately preceding the prohibition era were as follows:

January, 1919	164
February	186
March	172
April	204
May	271

The law went into effect in June, 1919, and the arrests for drunkenness for the rest of that year were as follows:

June	355
July	523
August	497
September	647
October	941
November	752
December	776

During the month of January, 1920, the total number of arrests for drunkenness was 768, as against 164 in the same month of the previous year and in February 770 as against 186 in February, 1919. The restaurant keepers also call attention to conditions in Norway, where the official data compiled by the Central Bureau in Christiania show that fifty towns in the Kingdom have characteristic increases in drunkenness since the advent of prohibition, while in three towns only have decreases been evident.

THE VOICE OF THE PEOPLE

Wherever, in the United States, the people got an opportunity to show by their ballots what they thought of National Prohibition the sentiment was invariably and strongly adverse. The first manifestations came in conservative Vermont, where the law provides for annual voting upon the question of license or no license by the cities and towns, and where the Legislature had just ratified the Eighteenth Amendment. The people of the Green Mountain State showed their resentment for the license system in scores of municipalities, many of which had been "dry" for generations and some of which had never, theretofore, authorized the sale of liquor.

This situation was duplicated in Connecticut, one of the three States in which the Legislatures had refused ratification of the Eighteenth Amendment. Here all but two towns previously "dry" swung into the "wet" column at the annual license elections. The votes in every instance were heavy and while there was no organized effort upon the part of the liberal elements, it was freely recognized that the results reflected the protest of the electorate.

However, the most remarkable demonstrations of popular resentment occurred in Massachusetts, whose Legislature had been among the first to ratify the Eighteenth Amendment. From that time on to the spring election of 1920 the people showed their idea of the Legislature's action by voting "wet" at every opportunity. Nineteen cities shifted from "dry" to "wet" in this period, making the net result 37 "wet" and 1 "dry." In 1918 there were but 62 license towns in the State; in 1920 there were 180 though the question had been left off the ballot in 12 municipalities. The aggregate majority for license in the towns in 1920 was 17,830 as against a no-license majority of 8,582 in the previous year. The majority in the whole State for license in 1920 was 97,297 as against 19,527 the previous year.

But this great majority was put in the shade by the vote on what was known as the 4 Per Cent Beer Bill. Massachusetts has

a statute permitting the people in any legislative district to express their sentiment as to any proposed statute if a sufficiently signed petition be presented to the authorities. In November, 1919, petitions in favor of an act to declare 4 per cent beer a non-intoxicating drink, and to legalize its sale, notwithstanding the Eighteenth Amendment, were presented in 9 out of 40 Senatorial districts and 87 out of 165 Representative districts. Those districts which were known to be heavily "wet" in sentiment were purposely omitted. The vote on this proposition in the districts where it appeared upon the ballot was 212,575 in favor to 99,538 against, a majority of 113,037. It was agreed that if the question had been voted upon throughout the whole State, the favorable majority would have been at least 140,000 and might have been much greater.

The Legislature of 1920 responded to the overwhelming sentiment of the State by passing a bill to permit the sale of beer with an alcoholic strength of 2.75 per cent by weight as a non-intoxicant. This measure would have gone into the statute books had not the Governor interposed a veto, advising a postponement of legislation until the decision of the United States Supreme Court in the litigation over the Eighteenth Amendment and Volstead law would make clear what right a State had in the premises.

In Ohio in 1919, the people under a special referendum repudiated the legislative ratification of the Eighteenth Amendment, and also voted down the Crabbe Prohibition Enforcement law, a measure closely resembling the Volstead Act. But for confusion over the great number of referendum ballots, it is thought the people would also have repealed State Prohibition.

The Democratic candidate for Governor in New Jersey announced his opposition to National Prohibition. He carried the State by a handsome vote, though Republicans had heavy majorities for other offices. The Legislature of New Jersey passed a law legalizing the sale of beer containing 3.50 per cent alcohol, by volume, equivalent to 2.75 per cent by weight.

Reuben N. Haskell, a member of the National House of Representatives, announced himself in the fall of 1919 as a candidate for a judgeship in Brooklyn. He had incurred the enmity of the Anti-Saloon League in the lower house of Congress by refusing to do its

bidding, and that organization fought him in the primaries, aided by some of the party bosses. Unsuccessful in preventing Mr. Haskell's nomination the League made an exceedingly bitter fight against him in the regular campaign. He received a majority exceeding 70,000, the greatest given to any candidate in Greater New York.

The new Legislature of the State, whose predecessor had ratified the Eighteenth Amendment, passed a 2.75 per cent law. And the State Democratic Convention in 1920 recommended this act to the notice of Congress.

In Virginia a Legislature pledged to put an end to Anti-Saloon League domination in State affairs was elected in 1919 and the measures enacted by that body greatly impaired the power of the prohibition organization. Further an avowed liberal was nominated for Congress in the important *New York* district.

Wisconsin, one of the ratifying States, elected a Legislature which enacted a law permitting the sale of beer with an alcoholic content of 2.5 per cent by weight.

In many parts of the country candidates for legislative and other political honors achieved election through avowed opposition to the Eighteenth Amendment and the Volstead law.

The Republican National Convention at Chicago was importuned to put a prohibition plank in its platform. It refused to do so.

The Democratic National Convention defeated an anti-prohibition plank, but rejected the proposition for a prohibition plank for which William J. Bryan battled by a vote of 4 to 1.

The experience of two of the most conspicuous prohibition protagonists is not without interest. Andrew J. Volstead, whose name is attached to the Federal Prohibition Enforcement law, was beaten for renomination in his Congress District in Minnesota. He made a contest in the courts and the judge awarded to him the nomination certificate on the ground that his opponent had unjustly called him an atheist. Governor Carl H. Milliken, of Maine, who had hired counsel to appear in the name of his State in the Supreme Court and to file a brief for prohibition, was a candidate for renomination in his party primary. He ran a bad third.

THE VIEW OF THE PRESS

The great newspapers and other important journals of the country almost without exception viewed National Prohibition with grave apprehension. All of them in the past had been against the abuses connected with the sale of liquor and for the most part had fought for temperance and morality. A few of them had even gone to the extent of favoring State Prohibition, but National Prohibition, involving as it did and does, a virtual remodeling of our form of government and a tremendous encroachment by the federal power upon the rights heretofore reserved to and exercised by the States, could not fail to elicit much editorial condemnation.

Thus, the New York World on January 16, 1920, in its leading editorial entitled, "A Revolution," plainly sets forth the change that had been accomplished in the United States in the following words:

After 12 o'clock to-night the Government of the United States as established by the Constitution and maintained for nearly 131 years will cease to exist.

In its place will be established a new Government, under which the historic relations between the Federal authority and the several States and the historic relations between the Federal authority and the individual citizens are revolutionized. The fundamental principle upon which the Republic was established and the theory of popular government held by its founders have been destroyed by the Eighteenth Amendment.

Upon this new Government which will come into existence to-night and under which we shall be living to-morrow there has been conferred the most despotic powers to be found in any civilized community, unless we are to regard Bolshevist Russia as civilized.

Police powers hitherto distributed among forty-eight States are taken over by the Federal authority, which at the same time will proceed to regulate the personal habits, customs and recreations of the individual citizen. The housewife who permits a jar of fruit

juice to ferment until its alcoholic content exceeds one-half of 1 per cent. will be liable to arrest and imprisonment as a criminal. The citizen who carries a glass of brandy to an unfortunate fellow-citizen who lies unconscious in the street will likewise be liable to arrest and imprisonment. He, too, will be a criminal. The citizen who ventures to remove a bottle of beer from one habitation to another without first obtaining the written permission of the new United States Government is likewise a criminal. Should the offender happen to be an alien resident, whatever his status, he will be subject to deportation for this violation of the Constitution and the law of the land.

Together with this assumption of sovereign power over the personal habits of the citizen there comes a new doctrine of property which is recognized nowhere else except in the Russia of Lenine and Trotzky. It was the doctrine of the old Constitution that no person should be "deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation." It is the doctrine of the new Constitution that property may be confiscated and destroyed whenever a sufficient majority of Congress and a sufficient majority of the State Legislature decide that it shall be confiscated and destroyed. No reason need be given. It is enough to say that confiscation and destruction are a manifestation of moral forces, and no vote of the moral or unmoral forces need be allowed.

Beginning at midnight we shall be living under a Government about which the people of the United States have had nothing to say, a Government created by office-holders for office-holders, a Government that has never known a ballot-box or a referendum and that can be perpetually maintained by the legislative majorities of thirteen of the smallest and most insignificant States of the Union.

Nothing like this has hitherto been known in the history of human freedom. Such centralization of power over the lives and habits of the individual has never before been realized outside the boundaries of Russia. What the ultimate effect of this revolution will be upon the United States we do not pretend to say. No man is wise enough to foresee all the ramifications of this new system that has been decreed or to estimate its ultimate consequences in relation to free institutions. But revolution it is, and only in terms of revolution can it be intelligently discussed.

What we know definitely to-day is, and all that we know definitely to-day is, that the fundamental principle of the Government of the United States as defined and established by the Fathers of the Republic has been overthrown by the Eighteenth Amendment and at midnight will have been obliterated.

The San Francisco Argonaut on January 24, 1920, in the course of a long editorial remarked:

There are things that enactments—even fundamental laws—may not do. Laws, however "fixed," become of non-effect when lacking the sanction of public approval and respect. The Constitution provides specifically a method of selecting the President of the republic. In practice we choose Presidents upon another principle and by wholly different means. It is fixed in the Constitution that the black man shall have equality of political privilege with the white man. In practice the black man is disfranchised throughout the Southern States. No way has yet been found permanently to impose upon the American people that which fails to coincide with and find continuing support in the popular will. It was Edmund Burke, we believe, who declared the impracticability of indicting a whole community; as truly may it be said that there is no means by which millions of men trained in the precepts of liberty and accustomed to freedom of private judgment in their personal affairs may be denied the exercise of that which is associated with their propensities, their habits, their sense of rightful privilege. For all the victory of the advocates of prohibition, despite their success in juggling the basic law of the land, we venture the prophecy that prohibition will fail practically. It will fail because it is founded in a false principle and supported by a false logic, because it is destructive of patriotic sentiment and tends to destruction of loyalty to government, because it imposes upon the majority the will of a minority, because it makes a crime of that which is no crime, because it robs industry and enterprise of that which they have legitimately acquired, because in practice the man of means is still privileged while the poor man is restrained, because it creates an army of spies busy in a hateful censorship of individual conduct, because it was imposed by shameful practice in political management, because its claims of moral reformation of society can not possibly be sustained, because it creates new costs of government and involves largely increased charges of taxation. A self-respecting people, valuing its liberties, resentful of interference in its private affairs, will rise in the might of righteous wrath and undo—or nullify—in resentment and anger that which has been done in the spirit of tyranny and by the methods of chicane.

A leading editorial in the Baltimore Sun contains the following:

It is not merely the question of the right to take a drink that is at stake. It is the question of maintaining every right which

differentiates this country from a moral and political despotism. The passage of the Eighteenth Amendment opens the door to a host of constitutional dangers.

The following pungent utterance is taken from the Rochester Herald:

"Go forth, my son," said Oxenstierna, "and behold with what little wisdom the world is governed." But the great Swedish statesman never heard of the Anti-Saloon League, and knew naught of the greatness of soul that shines through every act of the Congress of the United States. Living and dying when he did, poor man, he never saw the glorious political and social millennium we are now permitted to see and share.

The Providence News bitterly remarks:

The Eighteenth Amendment is based upon the votes of political hypocrites and cowards in Congress.

An editorial from the New York Times comments upon the early setting in of the reaction against National Prohibition as follows:

Many of the legislators who voted for prohibition did so from an admitted fear of the organized prohibitionists in their home districts. A large proportion of them are presently to face the electorate. The fear of defeat, under which they capitulated to the Anti-Saloon League, now looms ahead in a form even more terrible. The reaction has been sharp as it was unexpected. At the moment when reason and deliberation seemed foreclosed, it cropped up in widely separated communities, and almost everywhere won support.

The newspapers almost invariably counselled obedience to the amendment as long as it was in the Constitution, but their criticisms of the Volstead Act were even more stinging than those which commented upon the change in the organic law. Thus Harvey's Weekly in its issue of January 24 says:

And that law cries aloud to high Heaven for repeal or radical amendment. Its definition of "intoxicating liquors" is an absurdity and a falsehood. To declare that any beverage containing more than one-half of one per cent. of alcohol is intoxicating is simply

grotesque. It is to put cider, root beer, buttermilk, fruit juices, and a large proportion of the drinks of soda fountains in the same category with brandy and gin. It forbids the farmer to crush out a barrel of apple juice and let it turn to vinegar by natural processes. It forbids the housewife to simmer over a slow fire a mixture of sassafras, dock root, sweet birch twigs and prince's pine in a kettle of water, and let the stuff "work itself clear" with a little yeast, under penalty of a term in prison.

Equally monstrous are the restrictions upon transporting intoxicating liquors. A man who is subject to intestinal disturbances for which blackberry brandy is a specific, is forbidden under penalty of fine and imprisonment to carry a flash of that medicine with him when he travels—the very time when he most needs it. A physician may think that his patient needs forty drops of whisky three times a day, and may prescribe it for him, and the druggist may fill the prescription; and the man may take it while he is at home; but he must not carry the bottle to his office, so as to take a dose at noon, and if he goes from home on a visit or a business trip, long or short, he must leave the bottle behind him and go without the medicine while he is away.

Worst of all—if it be possible for anything to be worse than these—according to those who are most responsible for this measure, two of the fundamental principles of our jurisprudence, otherwise universal, are to be reversed. No longer is a man to be permitted to decline to answer a question on the ground that to do so might tend to incriminate him; but he is to be compelled to testify against himself, or be punished for contempt of court. No longer, either, is a man to be presumed innocent until he is proved guilty, the burden of proof resting with the accuser; but he is to be regarded as guilty until he himself proves his innocence, and if he cannot prove his innocence, he is to stand condemned on the strength of unproved accusations.

Such regulations, we submit, are simply barbarous. They are disgraceful to the legal code of any civilized State. They make the whole law of which they are a part ridiculous, tyrannous, odious, and in the last analysis unenforceable. They reflect in like manner upon the Amendment itself; that is, upon the Constitution; and that is a very bad thing to do. They are the more detestable because they are entirely unnecessary for the attainment of the ostensible purpose of the Amendment and the law, which is to rid the country of the curse of drunkenness. There should, therefore, be a nation-wide movement to secure their prompt repeal, and the substitution of an enforcement measure which will be as little offensive to personal liberty as possible. In such a move-

ment the true friends of prohibition and of the Eighteenth Amendment should be of all men most deeply interested, for upon the granting of such relief from the intolerable conditions now prescribed depends the success of their cause. Rationally enforced, the Amendment may stand and be effective. Enforced in such a way as is now provided, it would inevitably become a dead letter.

The New York Globe suggests a liberalization of the law as follows:

The most strategic attack on absolute prohibition could be made in the election of our next Congress. . . . A wiser law, leaving the definition of intoxicating liquor to the States, is the easiest way out. Under the amendment such a law is possible, and, considering the widespread feeling on the subject, it is most desirable. The man who drinks beer or claret is not in reality committing an act which menaces the public good, and since that is true the State has little justification for restraining him. There are enough crimes which nobody can mistake to keep our police busy. We have no need of blue laws.

The Albany Argus repeats this suggestion in the following language:

A new Congress will be elected in November. If those opposed to total prohibition elect men enough pledged to stand for beer and light wines, the Volstead "bone dry" enforcement act can be repealed by the next Congress. It is within the power of the people to get that much relief.

The Knickerbocker Press of Albany calls for law enforcement at whatever cost, so as to get rid of the hypocrisy attending the failure to enforce the Volstead act. The Press says:

Either the people should put up as many hundreds of millions of dollars as are necessary to enforce prohibition or they should amend the law so that it can be enforced for about the sum they are willing to pay. Let us have no more hypocrisy.

In commenting upon the decision of the Supreme Court sustaining the Volstead Act, the Buffalo Commercial says:

The decision of the court is binding, of course, and the liquor interests will abide by its findings. But there is no power in the courts to keep people from drinking. The man who wants his

liquor will get it by hook or crook. The machinery of the Government will be exercised at vast expense to punish violators of the law, but juries will not convict. The trouble arises from the fact that this amendment was put through without the consent of the people. All laws to be effective must be sustained by public opinion.

The Brooklyn Eagle makes the following comment:

But the decision will not check; it will only stimulate to new industry the very large body of opinion which will never accept the Volstead Act as a finality in legislation. Narrow standards of alcoholic content as applied to beverages by one Congress can be modified by another Congress. The Prohibitionists are privileged to oppose modification, but they cannot withhold from those who differ the right to appeal to Congress for a more liberal measure of interpretation and enforcement. *Nothing in the Supreme Court decision makes the Volstead Act a fixture.*

The Providence Tribune says:

The Volstead law is utterly unreasonable in its severity and illiberality, and at the very earliest practicable moment must be so modified—or entirely supplanted—as to give the people what they want and will alone respect and support, namely, a rational prohibition that is not open to the charge of being fanaticism.

This is the comment of the Syracuse Herald:

There is nothing in the decision, however, to estop future Congresses from liberalizing the Volstead act. But if the next Congress should leave it unchanged, it will have no option but to increase enormously the appropriations for enforcement. The present provisions for that purpose are ridiculously inadequate, and the result is seen in widespread violation of the amendment and of the enforcing statute.

The Baltimore News makes this suggestion:

The very fact of the enormous degree of authority accruing to Congress by the decision places on Congress the responsibility to initiate legislation which will reduce dissatisfaction to the utmost. The Volstead act, far more than the Amendment itself, was framed in a spirit of bigotry, a spirit certain to get the worst, instead of the best, out of the Amendment. The demand now ought to be for sweeping changes in the law, its whipping into a form commensurate with the dignity and seriousness of the problem of

safeguarding the nation's contentment. It may be that this canno be accomplished in any single session. But one thing is certain: Neither bigotry nor extreme reaction from bigotry will produce the kind of legislation needed.

The Post Dispatch of St. Louis says:

Federal prohibition is now wholly a political question. The courts are closed. If the people do not like Federal prohibition they must vote for its repeal, a long and difficult path even with a persistent majority in favor of repeal. If they do not like the present enforcement act, they must elect a Congress which will change it.

The Evening Sun of New York comments upon the enormous expense involved in enforcement as follows:

What a wealth of appropriations it will take the day that the country starts in to carry out the Volstead law in a serious way! For the present, in view of the very liberal amount already devoted to Federal prohibition policing, the enforcers seem satisfied not to press the pace. In the future, prohibition will be enforced to the extent of just as many millions as the public will readily pay in taxes to enforce it.

Many other newspapers, such as the Brooklyn Citizen, the Rochester Herald, the New York Times, the Springfield Republican, the St. Paul Pioneer Press, the New Orleans States, and the Boston Herald show how Congress could liberalize the law.

The recent ruling by the Internal Revenue officials to the effect that beverages made at home need not contain under one-half of 1 per cent. of alcohol, as is required of manufactured drinks, draws the following caustic comment from the Columbia, South Carolina, Record:

One-half of one per cent. alcohol coupled with the warping out of its common-sense meaning of the word "manufacture," prohibited the making of wines in the home; the housewife became a black criminal if her blackberry cordial developed the least symptom of conviviality; the farmer must keep watch and ward over the cider barrel, and became particeps criminis the moment he permitted the jocund juice to transgress beyond the sacred deadline. The amendment did not stipulate this, but the new hierarchy reared

up to expound it so ordered, and "the rude multitude" could do no other than obey.

It was clearly absurd to suppose that such a law would be obeyed, even by law-abiding folk. It wasn't a law that self-respecting freemen could obey without the poignant consciousness that they were being bowed beneath a yoke as heavy as the Russian muzhik groaned under in the halcyon days of the Romanoffs. And it was clearly a law that could not be enforced as its authors have apparently now discovered. For a late decision of the Bureau of Internal Revenue interprets the law relating to "cider and fruit juices" as follows:

"Any person may, without permit, and without bond, manufacture non-intoxicating cider and fruit juices, and in so doing he may take his apples and fruits to a custom mill and have them made into cider and fruit juices.

"After such non-intoxicating cider and fruit juices are made, they must be used exclusively in the home, and when so used, the phrase 'non-intoxicating' means non-intoxicating in fact and not necessarily less than one-half of 1 per cent. of alcohol, as provided in Section 1 of the said act."

The authors of the Volstead law have, on many occasions, undertaken to defend their one-half of one per cent. provision, and to demonstrate that any alcoholic content in excess of that percentage was intoxicating. Here is a plain declaration, in the words "the phrase 'non-intoxicating' means non-intoxicating in fact and not necessarily less than one-half of 1 per cent. of alcohol," that the law is hypocritical.

It is to laugh! Here is the plain letter of the law, good people, but by a special dispensation it is permitted unto you to fudge a little in the observation of it! The surest way to breed the habit of disrespect of all laws is to promulgate silly and oppressive laws that a large and wholesome public sentiment disapproves.

THE LIGITATION BY THE BREWERS

During the war period, except for a few months when the production of all cereal beverages was suspended, the brewers of the United States manufactured and sold beer, which under the President's proclamation contained not exceeding 2.75 per cent of alcohol by weight. Eventually the President, by proclamation, lifted the ban on non-intoxicating cereal beverages. Meantime the original war prohibition enactment (Act of Nov. 21, 1918) had gone into effect forbidding the production of all intoxicating drinks, and the Commissioner of Internal Revenue announced that he would regard all beverages containing ½ of 1 per cent of alcohol or more as intoxicating under the statute. Knowing that their war beer was in fact non-intoxicating and believing that the ruling of the Commissioner was arbitrary and unlawful the brewers throughout the country continued to turn out their product, and, having engaged Messrs. Elihu Root and William D. Guthrie as their chief counsel, proceeded to battle in the Federal Courts to protect their rights.

A bill in equity was filed on March 19, 1919, in the United States Court for the Southern District of New York, seeking on behalf of the Jacob Hoffman Brewing Company to enjoin the local Collector of Internal Revenue and the local United States District Attorney from interference with that concern's lawful business. On April 30, 1919, a bill with a similar plea was filed on behalf of Jacob Ruppert, brewer of New York. Similar action was taken at various times in behalf of brewers in other parts of the country. The Government, on its part, became active, and instituted criminal proceedings against a number of brewers, by means of "information" or indictments. In none of these cases did the Government, through the District Attorneys, charge that 2.75 beer was in fact intoxicating.

It would be unprofitable to give in detail the history of all the cases, but it may be mentioned that while adverse decisions were rendered in several district courts, favorable rulings were obtained

in the Southern District of New York (confirmed by the U. S. Circuit Court of Appeals for the Second Circuit), in the District of Maryland, in the Eastern District of Louisiana, in the District of Massachusetts, in the District of Rhode Island, in the Northern District of California, in the Southern District of California, in the Western District of Wisconsin, in the District of Porto Rico and in the Eastern District of Wisconsin. Eventually the issue came before the Supreme Court of the United States, which in dismissing indictments against the American Brewing Company of New Orleans and the Standard Brewing Company of Baltimore, sustained the main contention made by the brewers and vindicated the position they had taken.

Title I of the Volstead act, passed October 28, 1919, continued war prohibition and designated as intoxicating alcohol, brandy, whisky, rum, gin, beer, ale, porter and wine, and in addition any spirituous, vinous, malt or fermented liquor, liquids or compounds, fit for beverage use, containing as much as ½ of 1 per cent of alcohol, thus adopting the arbitrary ruling of the Commissioner of Internal Revenue as a statutory definition. This act was attacked upon two chief grounds. First it was urged that the Congress had no authority to enact war legislation of this character, when the war was, in fact, over, and any necessity therefor had passed, as shown by Presidential proclamations and other evidence. Second, it was argued, Congress had no authority to adopt a definition as to intoxicants, in variance with the admitted scientific truth. In its decision the United States Supreme Court upheld the act, holding that a technical state of war was still in existence and refusing to limit the discretion of Congress in respect to legislation enacted under the war power.

These actions may be regarded as preliminary skirmishes, the real conflict opening when the actual validity of the Eighteenth Amendment itself and the constitutionality of Title II of the Volstead Act, providing for permanent national prohibition, were attacked. The chief case was brought in the name of Christian Feigenspan (a corporation), a brewing concern of Newark, N. J., and the States of Rhode Island and New Jersey, through their Attorneys General, besides a number of individual concerns, joined

in the battle. On June 7, 1920, the Supreme Court rendered a decision sustaining both amendment and statute.

In the hearing before the Court, Mr. Root made the attack upon the validity of the Amendment. His argument may be summarized as follows:

I. The substantive and operative part of the so-called Eighteenth Amendment is contained in its first section. This provision does not relate to the powers or organization of government, as does an ordinary constitutional provision. On the contrary, it is itself an exercise of the legislative power of government, and a direct act of legislation regulating the conduct of life of the individual. The first question before the Court is, therefore, whether Article V of the Constitution authorizes any amendment which in substance and effect is merely a police regulation or statute.

To uphold such a power of amendment would do violence to what Hamilton (Federalist, No. 22, p. 135, Ford's ed.) described as "the fundamental maxim of republican government . . . which requires that the sense of the majority should prevail." If the so-called Eighteenth Amendment be a valid part of the Constitution, its repeal can hereafter be perpetually prevented by a minority, for if but one State more than one-fourth of the States refuse to assent thereto, it is irrepealable. The census of 1910 discloses that there are in the Union thirteen States whose aggregate population does not equal 5 per cent of the entire population of the United States. Consequently, however, vast the majority of the population in the future may be who are persuaded by experience that this direct legislative regulation of their lives and personal habits was or has become unwise and unnecessary, they will be helpless to change the law if there be dissent on the part of a minority representing only 5 per cent of the population or perhaps less.

There is plainly a distinction in this respect between the so-called amendment as adopted and as it would be if it had conferred *power* upon Congress to prohibit the use of intoxicating liquors. An amendment in the latter form would, it is true, be precisely as irrepealable as the one here in question, but the conduct of individual life thereunder would at all times be within

the control of representatives of the majority of the people. Congress would then have the power to prohibit intoxicants or not, completely or qualifiedly, as it from time to time deemed best; and if the majority of the people then desired prohibition, Congress could respond to their wish; and if, on the other hand, the vast majority thereafter became persuaded that extreme prohibition was no longer necessary, in that respect also Congress could effectuate the will of the people. In every free government the direct regulation of the lives of the people by legislation should at all times be in the hands of the majority, however the powers of government may be distributed and allocated.

This fundamental consideration differentiates sharply the Eighteenth Amendment from the Thirteenth Amendment, to which the Eighteenth bears a superficial resemblance. As is now universally conceded, slavery was the creation of positive law, and it was always unauthorized unless some exercise of government permitted it. A constitutional declaration that slavery was prohibited, would, therefore, in substance, be only the withdrawal from every governmental authority of the *power* to license or permit involuntary servitude. That amendment, consequently, only affected the *powers* of government, and did not constitute, as does the so-called Eighteenth Amendment, a direct legislative exercise of those powers.

Article V of the Constitution should not be construed to confer unlimited legislative power upon the amending authorities. To assume that it does is inconsistent with the plain provision of Section 1 of Article I of the Constitution that "*all* legislative powers herein granted shall be vested in a Congress of the United States," and with the terms of Article V itself, as the proceedings of the constitutional convention disclose that the framers themselves understood those terms. The framers undoubtedly regarded the power to amend only as authorizing the inclusion of matter of the same general character as the instrument or thing to be amended; and as all the constitutions of their day were concerned solely with the distribution and limitations of the powers of government, and not with the direct exercise thereof by the constitution makers themselves, no amendment of the latter sort would have been deemed appropriate or germane by them.

It does not advance the discussion to urge that *the people* can adopt any amendment to the Constitution they see fit. No doubt an amendment of any sort could be adopted by the same means as were employed in the adoption of the Constitution itself. In that manner alone do or can *the people* themselves act. But the amending authorities provided for in Article V of the Constitution, as clearly appears from the debates in the constitutional convention, are only *agents* of the people and not the people themselves. They must, therefore, act within the authority conferred in Article V, and that authority does not embrace the right under color of amendment to adopt mere sumptuary laws which are not constitutional amendments in truth or essence. The people could by appropriate proceedings amend the Constitution so as to impair such vital rights as freedom of religion, but it is inconceivable that any such unlimited power has been delegated to the amending agents, who may represent but a minority of the people. The census discloses that there are three-fourths of the States of the Union whose total population amounts to less than 45 per cent of the people of the United States, and two-thirds of a quorum of both houses of Congress may, therefore, likewise represent only a minority of the population.

Ratification by state legislatures does not as matter of fact provide an opportunity for the people to express their will regarding the proposed Eighteenth Amendment as the calling of conventions might have done. Thus, for example, the Missouri legislature ratified it, notwithstanding an express provision of the Missouri Constitution (Art. II, Sec. 3) forbidding them so to do, and in Ohio ratification by the legislature was subsequently rejected by the people at the polls while in other states the people have been denied all right to have the question of ratification referred to them for approval.

If, as contended by the defendants, the power of amendment vested in Congress and three-fourths of the State legislatures be absolute and unrestricted, then there would be no limitation whatever upon their legislative authority. They could then by amendment establish a State religion, or oppress or discriminate against any denomination, or authorize the taking away of life, liberty

and property, without due process of law, etc., etc. This would destroy the most essential limitation upon power under the American system of government, which is that the rights of the individual citizen shall be protected by withholding from the legislative function the power to do certain things inconsistent with individual liberty. This was the reason of the irresistible demand for the first ten amendments.

When the Federal Constitution was adopted, the people of practically every State had limited by bills of rights their own governments in their own States, which were composed of men elected by themselves. We are not at liberty to assume that in and by Article V it was contemplated that they were vesting legislative power without limitation in the Congress and the legislatures of three-quarters of the States. For these reasons and others, all more fully discussed in the briefs, it is submitted that the adoption of the so-called Eighteenth Amendment by the agents of the people was beyond the amending power of such agents and therefore invalid.

II. The Eighteenth Amendment, furthermore, if valid, would tend to undermine a fundamental principle of our Federal system. As Chief Justice Chase declared in *Texas* v. *White,* 7 Wall., 700, 725, "the Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States." Manifestly, the Federal system of government created in the Constitution contemplated indestructible States—not indestructible geographic units merely, but indestructible self-governing, local sovereignties. The establishment of our dual system of government must necessarily imply that neither government shall be permitted to destroy the other, and that the States must be preserved, not as mere electoral and administrative districts of a unified and consolidated national government, but as true local, self-governing sovereignties, inviolate and indestructible members of a dual, and not a consolidated, system of government, and with a permanent and effectual reason for being, namely, the possession of the power and the right to exercise forever the functions of internal and local self-government.

The so-called Eighteenth Amendment *directly* invades the police

powers of the States and *directly* encroaches upon their right of local self-government. If this amendment be valid, then any amendment which directly impairs the police powers of the States and absolutely withdraws from them their right to local self-government in any important particular, heretofore indisputably a matter of internal concern, must likewise be valid. In other words, if the so-called Eighteenth Amendment be lawful, then the States are not in truth indestructible. It must be manifest that the precedent necessarily erected by a holding that the Eighteenth Amendment is constitutional, would authorize the complete subversion of our dual and Federal system of government. It is submitted that the authority conferred in Article V to amend the Constitution carries no power to destroy its Federal principle in a most fundamental aspect.

The Civil War amendments afford no justification for the Eighteenth Amendment. Their primary purpose was to crystallize into the Constitution some of the essentials of a free republican government, and it was expressly made the constitutional duty of the Federal Government to guarantee to the States such a form of government. This federal duty the Civil War amendments helped to realize; and the fact that, as an incident and indirectly, they interfered to some extent with the States is of no consequence. They are not like the Eighteenth Amendment, which is germane to no original federal duty, and which directly, primarily and deliberately invades the right of the States to govern themselves.

In attacking the Volstead Act, Mr. Guthrie argued that the correct construction of Section 2 of the Eighteenth Amendment vesting concurrent power of enforcement in the Congress and the several States, required the concurrence of the State of New Jersey in any legislation of Congress regulating internal or intrastate commerce in intoxicating liquors, and conversely required the concurrence of Congress in any legislation of the State regulating interstate or foreign commerce in intoxicating liquors, but that such section did not impair or qualify the existing reserved power of the several States independently to regulate their own internal or intrastate commerce or the existing power of Congress to regulate interstate or foreign commerce or the internal commerce of

the District of Columbia, the Territories, Porto Rico, Alaska, or the Philippine Islands.

The prohibition of the manufacture, sale, transportation, importation, or exportation of intoxicating liquors contained in section 1 of the Eighteenth Amendment, is self-executing, *Civil Rights Cases,* 109, U. S. 3, 20. If the amendment contained no grant of power of enforcement, Congress would have complete power to enforce the prohibition as it saw fit in interstate or foreign commerce or domestically in the District of Columbia, etc., and the States would have power to enforce the prohibition within their respective jurisdictions as to their intrastate or internal commerce. But Congress then would have no power under the Constitution to legislate in respect of the internal commerce of a State even with its consent and a State could not constitutionally legislate in respect of interstate or foreign commerce without the assent or concurrence of Congress. The second section of the amendment granted to Congress the additional or supplemental power to authorize federal officers to enter the States and apply and enforce the sanctions of federal or State legislation in respect of their internal affairs provided the State concurred in such legislation, and it granted to the respective States the power to apply and enforce their legislation or the legislation of Congress against interstate and foreign commerce provided Congress concurred in such State legislation.

This construction would give reasonable and logical scope and effect to section 2 of the amendment and every word thereof; would be consistent with the plan and provisions of the Constitution as a whole; would recognize the dual sovereignty in our federal system of Nation and State each supreme within its own sphere; would tend to promote cooperation and harmonious, effective, economical and satisfactory enforcement of the prohibition of intoxicating liquors, and would be efficient, conservative and beneficient as a practical method of enforcement. In other words, such a construction would not interfere with the power of Nation or State within their respective and exclusive spheres, would provide for cooperation in enforcement when found desirable, and would make fixed and permanent the constitutional principle and the governmental policy embodied in the acts of Congress known as the Wilson

Act of August 8, 1890, the Webb-Kenyon Act of March 1, 1913, and the Reed Amendment of March 3, 1917. Indeed, the Assistant Attorney General urged, after referring to the decisions of the court in *Clark Distilling Co.* v. *Western Maryland Ry. Co.*, 242 U. S. 311, and *United States* v. *Hill*, 248 U. S. 420, that section 2 of the amendment in providing for concurrent power was not revolutionary or an innovation in principle but made a permanent part of the Constitution the principle upon which these three intoxicating liquor statutes of Congress had been sustained.

Section 2 of the Eighteenth Amendment in providing for concurrent power of enforcement is unique and unprecedented and a departure from the precedents of the Thirteenth, Fourteenth and Fifteenth Amendments. The different form was adopted and submitted to the States for their approval undoubtedly because more likely to be acceptable if the States were retaining a voice in regulations affecting their own internal affairs. The controlling inquiry, however, is not so much what Congress itself understood as what the States reasonably understood from the language of the proposed amendment as submitted by Congress. *State* v. *St. Louis & S. W. Ry. Co.*, 197 *S. W.* 1012, 1013; *Alexander v. People*, 7 Colo. 155, 167; *White* v. *Hoyt*, 73 N. Y. 505, 511. Did they understand that they were surrendering to Congress their then exclusive legislative power over the internal traffic in intoxicating liquors? Did they understand that they were turning over to Congress practically supreme control, not only over interstate and foreign commerce, but over intrastate regulation in all its phases? Would not such a radical and far-reaching surrender and new delegation of power to Congress, in conflict with our traditions and history and our dual system, have readily found apt and direct expression?

The State legislatures must have understood and contemplated that the amendment provided for practical concurrence in enforcement, that concurrent enforcement would be more certain, economical, effective and harmonious than if Nation and State operated each within its own separate and independent sphere, and that federal legislation would or could be enforcible by a State if it concurred therein and were willing to have it apply to its internal affairs, and, conversely, that State legislation would or could be en-

forcible by federal agencies if Congress in its discretion concurred in the application of State laws to interstate and foreign commerce.

Section 1 shows that the controlling thought of Congress was to secure national prohibition; and Section 2 shows a purpose to commend this main proposal to the States for their acceptance by assuring them of the least possible interference with their police powers. This would tend to secure ratification when a proposition to surrender or abdicate their police powers would probably have been rejected. The question, therefore, upon which State legislatures voted was, Shall there be national prohibition without loss of State control over local affairs? The construction now urged by the Government, however, would result practically in complete loss of State control. Disguise it as they may, the learned counsel for the Government ask the court to give no practical effect whatever to the clause which was the inducement to the States to ratify the proposed prohibition amendment.

The history of the proposed amendment in the Sixty-fifth Congress should be traced and the following facts emphasized, namely, that both Houses rejected the form originally proposed which vested power in "the Congress and the several States independently or concurrently to enforce." the proposed amendment; that the Senate adopted on August 1, 1917, a form limiting the power of enforcement to Congress alone as in the prior constitutional amendments, that this form was not acceptable to the House, and that the amendment made by the House and concurred in by the Senate vested in "the Congress and the several States . . . concurrent power to enforce." The significance and effect of this amendment cannot be disregarded unless it is to be held that the change of wording made no change whatever in practical meaning, effect and result, and that the language of the modification made by the House can be disregarded as of no practical effect whatever notwithstanding "the elementary canon of construction which requires that effect be given to every word of the Constitution" as declared in *Knowlton* v. *Moore,* 178 U. S. 41, 87. See also *Hurtado* v. *California,* 110, U. S. 516, 534; *Holmes* v. *Jennison,* 14 Pet. 540, 570-571; *United States* v. *Standard Brewery, Inc.,* 251 U. S. 210, 218; *Schick* v. *United States,* 195 U. S. 65, 68; *Newell* v. *The*

People, 7 N. Y. 9, 97; Cooley's Constitutional Limitations, 7th ed. p. 92.

Ordinary definitions of the adjective "concurrent" show its current meaning to be "concurring or acting in conjunction; agreeing in the same act, contributing to the same event or effect; operating with; coincident" (Century Dictionary). See also Webster and Standard Dictionaries. The exact meaning can be determined by a consideration of the subject matter, probable purpose and context. *The Cherokee Nation* v. *Georgia,* 5 Pet. 1, 19; 1 Story on the Constitution, sec. 455; *Wedding* v. *Meyler,* 192 U. S. 573, 584; *In re Mattson,* 69 Fed. 535, 542; *Exparte Desjeiro,* 152 Fed. 1004, 1007; *Nielsen* v. *Oregon,* 212 U. S. 315.

For thirty years prior to the framing of the Eighteenth Amendment there had been a public movement and tendency to secure cooperation, that is, concurrence, between Nation and State in the regulation and prohibition of intoxicating liquors, as evidenced by the legislation of Congress in the Wilson Act in 1890, the Webb-Kenyon Act in 1913 and the Reed Amendment in 1917. The Wilson Act was based upon the language of this court in *Leisy* v. *Hardin,* 135 U. S. 100, 119, which suggested that the States could regulate interstate commerce in intoxicating liquors if Congress assented by appropriate legislation, and the act was upheld upon that theory, not only in respect of interstate commerce, but in respect of foreign commerce as well. *In re Rahrer,* 140 U. S. 545; *Delamater* v. *South Dakota,* 205 U. S. 93; *DeBary* v. *Louisiana,* 227 U. S. 108. In furtherance of this policy of cooperation and concurrence with the States, which thus began with the Wilson Law in 1890, Congress passed the Webb-Kenyon Law of 1913, and the Reed Amendment of 1917. *Vance* v. *Vandercook Company,* 170 U. S. 438; *Clark Distilling Co.* v. *Western Maryland Ry. Co.,* 242 U. S. 311; *United States* v. *Hill,* 248 U. S. 420. Mr. Chief Justice White declared in the *Clark Distilling Co.* case that the regulation of intoxicating liquors was "a subject as to which both State and Nation in their respective spheres of authority possessed supremest authority" and that "Congress in adopting a regulation had considered the nature and character of our dual system of government, State and Nation, and instead of absolutely prohibiting, had so

conformed its regulation as to produce cooperation between the local and national forces of government to the end of preserving the rights of all." *"Slaughter House Cases,* 16 Wall. 36, 78. Under these acts of Congress there was no uniformity as to regulation of interstate commerce in intoxicating liquors, for such commerce was subjected to the varying regulations of the respective States.

The Eighteenth Amendment, therefore, embodied in a permanent constitutional provision, a principle that had been judicially sustained as within the scope of the constitutional power of Congress, though not without dissent in this court and on the part of President Taft and the then Attorney General, and it had been a matter of grave constitutional controversy in Congress and in the forum of public opinion whether the decisions of this court were based on sound reasoning and tenable grounds.

The principal ground upon which the supremacy of the National Prohibition Act was deduced by the learned court below was that, as Article VI of the Constitution provides that "this Constitution and all laws and treaties made in pursuance thereof shall be the supreme law of the land, anything in any State constitution or statute to the contrary notwithstanding," it followed that this provision made the National Prohibition Act the supreme law of the land even as to intrastate regulation, notwithstanding any State statute to the contrary. But Article VI applies and controls only when an act of Congress is passed *in pursuance* of the Constitution, and hence, if the Eighteenth Amendment in and by its terms requires the concurrence of the State, an act of Congress without the concurrence of the State cannot be said to have been passed in pursuance of the Constitution and therefore enforcible as the supreme law of the land. Indeed, it should logically and reasonably follow that the insertion of the word "concurrent" in the Eighteenth Amendment was for the very purpose of preventing Article VI of the Constitution from operating to make the legislation of Congress supreme and practically exclusive. It begs the whole question before the court to advance Article VI as controlling, for, notwithstanding its provisions, it is still necessary to revert to the controlling inquiry whether the statute is or is not authorized

and enforcible as to intrastate commerce without the concurrence of the State, in order to determine whether it is or is not in pursuance of the Constitution.

The clause vesting concurrent power of enforcement in Congress and the several States cannot mean one thing as applied to the action of the several States, and quite another and different thing when applied to the action of Congress. It cannot mean that if there be conflict, the action of Congress must control, for that would plainly be to say that the power of the States was not concurrent, but subordinate, and, in practical effect, no power at all. *Wedding* v. *Meyler,* 192 U. S. 573, 584; *Neilsen* v. *Oregon,* 212 U. S. 315; *in re Mattson,* 69 Fed. 535, 542; *Ex parte Desjeiro,* 152 Fed. 1004, 1007; *Houston v. Moore,* 5 Wheat. 1, 22; *Passenger Cases,* 7 How. 283, 395, 396, 399. If, therefore, the clause in question does not authorize the States to invade the field of federal jurisdiction, *i.e.,* interstate and foreign commerce, without the concurrence of Congress, it would be illogical to argue that it authorized Congress to invade the field of State jurisdiction without the concurrence of the States.

It is not contended by the appellant that Congress and the several States must adopt identical or practically identical enforcement measures, or that any enforcement act adopted by one must be wholly inoperative if not adopted by the other. Such could not in reason have been the intention either of Congress or of the ratifying legislatures. But it is assumed that no unnecessary fundamental change in the federal system and its controlling and vivifying spirit was intended or contemplated, that the Nation and State were to continue supreme and independent each within its own historic and constitutional sphere, that no undue interference of one with the other was intended, and that additional or supplemental power was being granted to both, which would authorize each to enter the sphere of the other provided the latter concurred; in other words, cooperated by concurring.

The appellant further contends that Title II of the National Prohibition Act is unconstitutional in certain particulars because not appropriate legislation and because it contains arbitrary and

oppressive provisions depriving persons of their property rights without due process of law.

It is conceded of record by the Government and not challenged in its argument that the definition contained in Section 1 of Title II of the National Prohibition Act includes beverages which are as matter of fact non-intoxicating. The prohibition of the Eighteenth Amendment, however, is expressly limited to intoxicating liquors.

As the sole grant of power to Congress was to enforce a limited prohibition which was confined to "intoxicating liquors"—not alcoholic liquors—not liquors for beverage purposes, but solely "intoxicating liquors," it follows that this term measures the scope of the prohibition, and likewise limits the extent of the power of enforcement thereunder. The National Prohibition Act, in covering and including non-intoxicating liquors is, therefore, broader than the Eighteenth Amendment and hence unauthorized thereby.

The power of Congress in peace times to enforce the specific prohibition of intoxicating liquors is not as broad and comprehensive as the police powers of the States. The case of *Ruppert* v. *Caffey,* 251 U. S. 264, does not so adjudge. The court was then dealing solely with the war power of Congress, which is the highest attribute of governmental sovereignty, and the comparison in the opinion in that case with the State police power as an analogy was merely to illustrate freedom from restraint. Surely this court did not intend to assert any more than that whatever a State might do under its police power, Congress could do under its war powers.

Incidental power to enforce a grant of power to Congress cannot be used to enlarge and expand the grant itself—particularly when to allow it would impinge upon the reserved powers of the States. The language of Mr. Justice Bradley in the *Civil Rights Cases,* 109 U. S. 3, is most illuminating and convincing upon this point. The mere fact that the prohibition of nonintoxicating beverages may in the judgment of Congress tend to aid and render more effective the enforcement of prohibition against intoxicating liquors is insufficient. *United States* v. *De Witt,* 9 Wall. 41; *Civil Rights Cases,* 109 U. S. 3; *Hodges* v. *United States,* 203 ib. 1; *Hammer* v. *Dagenhart,* 248 ib. 251.

The first section of Title II of the National Prohibition Act

plainly purports to constitute no more than a definition of the term "intoxicating liquors" as used in the Eighteenth Amendment. It was enacted as and for a definition, and that is its declared intent. The provision might not have been enacted had its wording been changed so as to declare that it was in truth not a definition at all, but was being inserted in the act because it was believed to be advisable to include non-intoxicating liquors in order more effectively to enforce the prohibition against intoxicating liquors. The definition of an intoxicating liquor is one distinct and concrete idea and intent; the banning of non-intoxicating liquors as an incidental measure of enforcement is quite a different idea and intent.

No more objectionable or dangerous doctrine could be imagined than that an enactment, clearly avowed and intended to be a definition of a constitutional term and having in view solely that purpose and end, can be sustained as an exercise of a very different power and intent having in view a different end and supported by entirely different considerations—an intent and purpose that may not have been in the minds of Congress at the time. Such a practice, if tolerated, would enable the courts to attribute to a statute a meaning and effect not at all contemplated or understood by those who enacted it, and possibly in conflict with their actual intent. If a provision of an act of Congress purporting solely to be a definition is arbitrary and invalid as such, it ought not to be upheld upon a theory which in all reasonable probability was not in the minds of those who passed the statute.

It may be proper in reviewing State legislation which has been upheld by a State court as within the legislative powers of a State, for this court to attribute an intent found by the State court, and not at all permissible to attribute such an intent in the case of a provision in an act of Congress purporting on its face solely to be a definition and passed in the exercise of a distinctly limited power of legislation—as here limited to intoxicating liquors. Congress is always exercising delegated, limited, circumscribed and enumerated powers, and not the broad and elastic police powers of a State.

The only power granted by or enumerated in the Eighteenth Amendment is that of "appropriate legislation" to enforce a prohibition limited to intoxicating liquors. Legislation cannot be deemed

appropriate legislation within the true intent and meaning of the amendment if it prohibits non-intoxicating beverages and thereby unduly interferes with the reserved police powers of the several States. The Eighteenth Amendment must be read in connection with the Tenth Amendment. It could not have been intended by the use of the phrase "appropriate legislation" to authorize Congress to construe a prohibition limited to intoxicating liquors as including authority to regulate the vast field of non-intoxicating beverages, which the amendment itself had left unprohibited and therefore free for State regulation.

A study of federal legislation and the practical operation of numerous federal statutes will show that the prohibition of non-intoxicating beverages contained in the National Prohibition Act is not reasonably appropriate legislation for the purpose of prohibiting intoxicating liquors and is unduly oppressive.

Sixty years of regulation by Congress of the alcoholic content of beverages has demonstrated that adequate provisions for licensing and supervising the production of non-intoxicating malt or vinous liquors at the breweries or places of manufacture, and for licenses, stamps, labels and inspection certificates before shipment, could easily have been framed, as was done in respect of analogous subjects in the Food and Drug Act of Congress of June 30, 1906; the Meat Inspection Act of March 4, 1907; the Insecticide Act of April 26, 1910; the Plant Quarantine Act of August 20, 1912; the Pure Seed Act of August 24, 1912, and the Grain Standards Act of August 11, 1916.

If non-intoxicating beer, ale and porter may be prohibited, and even the use of their names made a criminal offense, because they look like intoxicating liquor, then grape juice, which looks like many kinds of wine, and syruped soda-water, nearly all the varieties of which look like some species of intoxicating liquors, may also be prohibited. It may be properly mentioned in this connection as a *reductio ad absurdum* that water looks like gin! It seems to be urged that it is merely a question of degree of regulation, and that the court ought not to override the judgment of Congress on any question of degree in the exercise of its constitutional powers. But the court is constantly called upon to deter-

mine just such questions of degree: *e.g.,* whether an act imposes a tax on exports or only a reasonable fee covering expenses of inspection in order to protect the Government against fraud (*Pace* v. *Burgess,* Collector, 92 U. S. 372); whether an act is legitimate regulation of rates or a confiscatory provision (*Smyth* v. *Ames,* 169 U. S. 466); whether an act constitutes a tax on exports or a mere stamp duty on a document (*Fairbank* v. *United States,* 181 U. S. 283); whether an act in practical operation is a tax on or a regulation of commerce (*Atlanta &c. Tel. Co.* v. *Phila.,* 190 U. S. 160, 162); whether an act is a legitimate police regulation of employment agencies (*Brazee* v. *Michigan,* 241 U. S. 340, 343) or a regulation which would destroy the business by arbitrary, oppressive, and unduly restrictive provisions (*Adams* v. *Tanner,* 244 U. S. 590, 597). All these cases presented questions of degree.

The case of *Purity Extract Co.* v. *Lynch,* 226 U. S. 192, principally relied on by the Government, is readily distinguishable if it be borne in mind that the State legislation then in question was enacted in the exercise of the unlimited police power of the State and that the legislation had been sustained by the highest court of the State as not prohibited by the State constitution.

The definition of intoxicating liquors as those containing ½ of 1 per cent or more by volume of alcohol is arbitrary and contrary to conceded facts. This standard of alcoholic content originated for purposes of federal internal revenue taxation in connection with the Civil War Revenue Act of July 13, 1868, 14 Stat. 164, sec. 48, and was first adopted by the Treasury Department as a test of what should be deemed "fermented liquors" under taxing statutes. Treasury Decision Special No. 102, May 17, 1871, T. D. No. 804, June 29, 1904; T. D. No. 892, April 26, 1905; T. D. No. 1307, February 5, 1908; T. D. No. 1360, May 19, 1908; T. D. No. 2354, August 2, 1916; *United States* v. *Standard Brewery,* 251 U. S. 210, 219; P. O. Department Liquor Bulletin No. 2, June 15, 1917. States adopted the same standard as a matter of practical, convenient and economical administration. See *e.g.,* New York Liquor Tax Law, sec. 2, subd. 6; Revised Code of Delaware, ch. 6, Art. II, Sec. 137; Oregon General Laws of 1905, ch. 2, sec. 18; Oklahoma Constitution, Prohibition Amendment of 1907. At State legislatures could, if

they say fit, prohibit, not only intoxicating liquors but liquors containing no alcohol at all (*Purity Extract Co.* v. *Lynch,* 226 U. S. 192), the present question could not arise.

The definition of an intoxicating liquor contained in Section 1 of Title II of the National Prohibition Act is conceded on the record to be arbitrary and false, and it is not even attempted to be upheld as a definition. As declared by this court at this term in *Eisner* v. *Macomber,* Congress cannot by any definition conclude the matter since it cannot by legislation alter the Constitution or add to its powers. The authority conferred by the amendment is not as to liquor in general but only as to "intoxicating liquors for beverage purposes." If Congress can under the guise of a definition or of appropriate enforcement legislation forbid the manufacture and sale of non-intoxicants as a State may under the doctrine of the *Purity Extract Company cases,* it can likewise, under the plea that it deems it necessary, forbid the manufacture and sale of any liquor whatever, whether alcoholic or not, for medicinal, industrial or sacramental purposes; for if one qualifying and limiting term, *i.e.,* "intoxicating," can be disregarded, the other qualifying term of the same nature and of no higher obligation, may also be deleted. Such a method of construing a constitutional provision is condemned by settled canons of constitutional interpretation, and more important still is the fact that it would violate fundamental principles of honesty and good faith in public affairs.

The decision of the Supreme Court, including an opinion by Chief Justice White, a statement by Associate Justice McReynolds and a dissenting opinion by Associate Justice McKenna, follows:

SUPREME COURT OF THE UNITED STATES.

Nos. 29 Original, 30 Original and 696, 752, 788, 794, 837.

OCTOBER TERM, 1919.

State of Rhode Island, Complainant,

vs.

A Mitchell Palmer, Attorney General et al.

State of New Jersey, Complainant,
vs.
A. Mitchell Palmer, Attorney General, et al.
No. 29 Original.
No. 30 Original.

	George C. Dempsey, Appellant,	Appeal from the District
696	*vs.*	Court of the United
	Thomas J. Boynton, as United States Attorney, et al.	States for the District of Massachusetts.
	Kentucky Distilleries & Warehouse Co., Appellant,	Appeal from the District Court of the United
752	*vs.*	States for the Western
	W. V. Gregory, as United States Attorney, et al.	District of Kentucky.
	Christian Feigenspan, A Corporation, Appellant,	Appeal from the District Court of the United
788	*vs.*	States for the District
	Joseph L. Bodine, as United States Attorney, et al.	of New Jersey.
	Hiram A. Sawyer, as United States Attorney, et al., Appellants,	Appeal from the District Court of the United
794	*vs.*	States for the Eastern
	Manitowoc Products Company.	District of Wisconsin.
	St. Louis Brewing Association, Appellant,	Appeal from the District Court of the United
837	*vs.*	States for the Eastern
	George H. Moore, Collector, et al.	District of Missouri.

[June 7, 1920.]

Mr. Justice VAN DEVANTER announced the conclusions of the Court.

Power to amend the Constitution was reserved by Article V, which reads:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which,

in either case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

The text of the Eighteenth Amendment, proposed by Congress in 1917 and proclaimed as ratified in 1919, 40 Stat. 1050, 1941, is as follows:

"Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

We here are concerned with seven cases involving the validity of that Amendment and of certain general features of the National Prohibition Law, known as the Volstead Act, ch. 83, Acts 66th Cong., 1st Sess., which was adopted to enforce the Amendment. The relief sought in each case is an injunction against the execution of that Act. Two of the cases—Nos. 29 and 30, Original,—were brought in this court, and the others in District courts. Nos. 696, 752, 788 and 837 are here on appeals from decrees refusing injunctions, and No. 794 from a decree granting an injunction. The cases have been elaborately argued at the bar and in printed briefs; and the arguments have been attentively considered, with the result that we reach and announce the following conclusions on the questions involved:

1. The adoption by both houses of Congress, each by a two-thirds vote, of a joint resolution proposing an amendment to the Constitution sufficiently shows that the proposal was deemed necessary by all who voted for it. An express declaration that they regarded it as necessary is not essential. None of the resolutions

whereby prior amendments were proposed contained such a declaration.

2. The two-thirds vote in each house which is required in proposing an amendment is a vote of two-thirds of the members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership, present and absent. *Missouri Pacific Ry. Co.* v. *Kansas,* 248 U. S. 276.

3. The referendum provisions of State constitutions and statutes cannot be applied, consistently with the Constitution of the United States, in the ratification or rejection of amendments to it. *Hawke* v. *Smith,*—U. S.—, decided June 1, 1920.

4. The prohibition of the manufacture, sale, transportation, importation and exportation of intoxicating liquors for beverage purposes, as embodied in the Eighteenth Amendment, is within the power to amend reserved by Article V of the Constitution.

5. That Amendment, by lawful proposal and ratification, has become a part of the Constitution, and must be respected and given effect the same as other provisions of that instrument.

6. The first section of the Amendment—the one embodying the prohibition—is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers and individuals within those limits, and of its own force invalidates every legislative act—whether by Congress, by a State legislature, or by a territorial assembly—which authorizes or sanctions what the section prohibits.

7. The second section of the Amendment—the one declaring "The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation"—does not enable Congress or the several States to defeat or thwart the prohibition, but only to enforce it by apropriate means.

8. The words "concurrent power" in that section do not mean joint power, or require that legislation thereunder by Congress, to be effective, shall be approved or sanctioned by the several States or any of them; nor do they mean that the power to enforce is divided between Congress and the several States along the lines which separate or distinguish foreign and interstate commerce from intrastate affairs.

9. The power confided to Congress by that section, while not exclusive, is territorially coextensive with the prohibition of the first section, embraces manufacture and other intrastate transactions as well as importation, exportation and interstate traffic, and is in no wise dependent on or affected by action or inaction on the part of the several States or any of them.

10. That power may be exerted against the disposal for beverage purposes of liquors manufactured before the Amendment became effective just as it may be against subsequent manufacture for those purposes. In either case it is a constitutional mandate or prohibition that is being enforced.

11. While recognizing that there are limits beyond which Congress cannot go in treating beverages as within its power of enforcement, we think those limits are not transcended by the provision of the Volstead Act (Title II, § 1), wherein liquors containing as much as one-half of one per cent of alcohol by volume and fit for use for beverage purposes are treated as within that power. *Jacob Ruppert* v. *Caffey*, 251 U. S. 264.

Giving effect to these conclusions, we dispose of the cases as follows:

In Nos. 29 and 30, Original, the bills are dismissed.

In No. 794 the decree is reversed.

In Nos. 696, 752, 788 and 837 the decrees are affirmed.

Mr. Chief Justice WHITE concurring.

I profoundly regret that in a case of this magnitude, affecting as it does an amendment to the Constitution dealing with the powers and duties of the National and State governments, and intimately concerning the welfare of the whole people, the court has deemed it proper to state only ultimate conclusions without an exposition of the reasoning by which they have been reached.

I appreciate the difficulties which a solution of the cases involve and the solicitude with which the court has approached them, but it seems to my mind that the greater the perplexities

the greater the duty devolving upon me to express the reasons which have led me to the conclusion that the Amendment accomplishes and was intended to accomplish the purposes now attributed to it in the propositions concerning that subject which the court has just announced and in which I concur. Primarily in doing this I notice various contentions made concerning the proper construction of the provisions of the Amendment which I have been unable to accept, in order that by contrast they may add cogency to the statement of the understanding I have of the Amendment.

The Amendment, which is reproduced in the announcement for the court, contains three numbered paragraphs or sections, two of which only need be noticed. The first prohibits "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes." The second is as follows: "Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

1. It is contended that the result of these provisions is to require concurrent action of Congress and the States in enforcing the prohibition of the first section and hence that in the absence of such concurrent action by Congress and the States no enforcing legislation can exist, and therefore until this takes place the prohibition of the first section is a dead letter. But in view of the manifest purpose of the first section to apply and make efficacious the prohibition, and of the second, to deal with the methods of carrying out that purpose, I cannot accept this interpretation, since it would result simply in declaring that the provisions of the second section, avowedly enacted to provide means for carrying out the first, must be so interpreted as to practically nullify the first.

2. It is said, conceding that the concurrent power given to Congress and to the States does not as a prerequisite exact the concurrent action of both, it nevertheless contemplates the possibility of action by Congress and by the States and makes each action effective, but as under the Constitution the authority of Congress in enforcing the Constitution is paramount, when State

legislation and congressional action conflict the State legislation yields to the action of Congress as controlling. But as the power of both Congress and the States in this instance is given by the Constitution in one and the same provision, I again find myself unable to accept the view urged because it ostensibly accepts the constitutional mandate as to the concurrence of the two powers and proceeds immediately by way of interpretation to destroy it by making one paramount over the other.

3. The proposition is that the concurrent powers conferred upon Congress and the States are not subject to conflict because their exertion is authorized within different areas, that is, by Congress within the field of Federal authority, and by the States within the sphere of State power, hence leaving the States free within their jurisdiction to determine separately for themselves what, within reasonable limits, is an intoxicating liquor, and to Congress, the same right within the sphere of its jurisdiction. But the unsoundness of this more plausible contention seems to me at once exposed by directing attention to the fact that in a case where no State legislation was enacted there would be no prohibition, thus again frustrating the first section by a construction affixed to the second. It is no answer to suggest that a regulation by Congress would in such event be operative in such a State, since the basis of the distinction upon which the argument rests is that the concurrent power conferred upon Congress is confined to the area of its jurisdiction and therefore is not operative within a State.

Comprehensively looking at all these contentions, the confusion and contradiction to which they lead, serve in my judgment to make it certain that it cannot possibly be that Congress and the States entered into the great and important business of amending the Constitution in a matter so vitally concerning all the people solely in order to render governmental action impossible, or if possible, to so define and limit it as to cause it to be productive of no results and to frustrate the obvious intent and general purpose contemplated. It is true indeed that the mere words of the second section tend to these results, but if they be read in the light of the cardinal rule which compels a consideration of the context in view of the situation and the subject with which the amendment

dealt and the purpose which it was intended to accomplish, the confusion will be seen to be only apparent.

In the first place, it is indisputable, as I have stated, that the first section imposes a general prohibition which it was the purpose to make universally and uniformly operative and efficacious. In the second place, as the prohibition did not define the intoxicating beverages which it prohibited, in the absence of anything to the contrary, it clearly, from the very fact of its adoption, cast upon Congress the duty, not only of defining the prohibited beverages, but also of enacting such regulations and sanctions as were essential to make them operative when defined. In the third place, when the second section is considered with these truths in mind it becomes clear that it simply manifests a like purpose to adjust, as far as possible, the exercise of the new powers cast upon Congress by the Constitution. In other words, dealing with the new prohibition created by the Constitution, operating throughout the length and breadth of the United States, without reference to State lines or the distinctions between State and Federal power, and contemplating the exercise by Congress of the duty cast upon it to make the prohibition efficacious, it was sought by the second section to unite National and State administrative agencies in giving effect to the Amendment and the legislation of Congress enacted to make it completely operative.

Mark the relation of the text to this view, since the power which it gives to State and Nation is, not to construct or perfect or cause the Amendment to be completely operative, but as already made completely operative, to enforce it. Observe also the words of the grant which confines the concurrent power given to legislation appropriate to the purpose of enforcement.

I take it that if the second section of the article did not exist no one would gainsay that the first section in and of itself granted the power and imposed the duty upon Congress to legislate to the end that by definition and sanction the Amendment would become fully operative. This being true it would follow, if the contentions under consideration were sustained, that the second section, at least to the extent that it gave the States power, would authorize them to define the Amendment and give it sanction, which would amount

to saying that power in a State to enforce an enforceable amendment is a power to make an amendment enforceable which is not of that character.

Limiting the concurrent power to enforce given by the second section to the purposes which I have attributed to it, I assume that it will not be denied that the effect of the grant of authority was to confer upon both Congress and the States authority to do things which otherwise there would be no power to do. This being true, I submit that no reason exists for saying that a grant of power to enforce, which was necessary to enable that result to be accomplished, can be made use of for the purpose of destroying the provision to enforce which the grant was made.

Mr. Justice McREYNOLDS concurring.

I do not dissent from the disposition of these causes as ordered by the court, but confine my concurrence to that. It is impossible now to say with fair certainty what construction should be given to the Eighteenth Amendment. Because of the bewilderment which it creates, a multitude of questions will inevitably arise and demand solution here. In the circumstances I prefer to remain free to consider these questions when they arrive.

Mr. Justice McKENNA, dissenting.

This case is concerned with the Eighteenth Amendment of the Constitution of the United States, its validity and construction. In order to have it, and its scope in attention, I quote it:

"Section 1. After one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited."

"Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

The court in applying it has dismissed certain of the bills, reversed the decree in one, and affirmed the decrees in four others.

I am unable to agree with the judgment reversing No. 794 and affirming Nos. 752, 696, 788 and 837.

I am, however, at a loss how or to what extent to express the grounds for this action. The court declares conclusions only, without giving any reasons for them. The instance may be wise—establishing a precedent now, hereafter wisely to be imitated. It will undoubtedly decrease the literature of the court if it does not increase its lucidity. However, reasons for the conclusions have been omitted, and my comment upon them may come from a misunderstanding of them, their present import and ultimate purpose and force.

There are, however, clear declarations that the Eighteenth Amendment is part of the Constitution of the United States, made so in observance of the prescribed constitutional procedure, and has become part of the Constitution of the United States, to be respected and given effect like other provisions of that instrument. With these conclusions I agree.

Conclusions 4, 5, and 6, seem to assert the undisputed. I neither assent to them nor dissent from them except so far as I shall presently express.

Conclusion 7 seems an unnecessary declaration. It may, however, be considered as supplementary to some other declaration. My only comment is that I know of no intimation in the case that Section 2 in conferring concurrent power on Congress and the States to enforce the prohibition of the 1st Section, conferred a power to defeat or obstruct prohibition. Of course, the power was conferred as a means to enforce the prohibition and was made concurrent to engage the resources and instrumentalities of the Nation and the States. The power was conferred for use, not for abuse.

Conclusions 8 and 9, as I view them, are complements of each other, and express, with a certain verbal detail, the power of Congress and the States over the liquor traffic, using the word in its comprehensive sense as including the production of liquor, its transportation within the States, its exportation from them, and its importation into them. In a word, give power over the liquor business from producer to consumer, prescribe the quality of

latter's beverage. Certain determining elements are expressed. It is said that the words "concurrent power" of Section 2 do not mean joint power in Congress and the States, nor the approval by the States of Congressional legislation, nor its dependency upon State action or inaction.

I cannot confidently measure the force of the declarations or the deductions that are or can be made from them. They seem to be regarded as sufficient to impel the conclusion that the Volstead Act is legal legislation and operative throughout the United States. But are there no opposing considerations, no conditions upon its operation? And what of conflicts, and there are conflicts, and more there may be, between it and State legislation? The conclusions of the court do not answer the questions and yet they are submitted for decision; and their importance appeals for judgment upon them. It is to be remembered States are litigants as well as private citizens, the former presenting the rights of the States, the latter seeking protection against the asserted aggression of the Act in controversy. And there is opposing State legislation, why not a decision upon it? Is it on account of the nature of the actions being civil and in equity, the proper forum being a criminal court investigating a criminal charge. There should be some way to avert the necessity or odium of either.

I cannot pause to enumerate the contentions in the case. Some of them present a question of joint action in Congress and the States, either collectively with all or severally with each. Others assert spheres of the powers, involving no collision, it is said, the powers of Congress and the States being supreme and exclusive within the spheres of their exercise—called by counsel "historical fields of jurisdiction." I submit again, they should have consideration and decision.

The Government has felt and exhibited the necessity of such consideration and decision. It knows the conflicts that exist or impend it desires to be able to meet them, silence them and bring the repose that will come from a distinct declaration and delimitation of the power of Congress and the States. The court, however, thinks otherwise and I pass to the question in the case. It is a simple one, it involves the meaning of a few English words—

in what sense they shall be taken, whether in their ordinary sense, or have put upon them an unusual sense.

Recurring to the first section of the Amendment, it will be seen to be a restriction upon State and Congressional power, and the deduction from it is that neither the States nor Congress can enact legislation that contravenes its prohibition. And there is no room for controversy as to its requirement. Its prohibtion of "intoxicating liquors" "for beverage purposes" is absolute. And, as accessory to that prohibition, is the further prohibition of their manufacture, sale or transportation within or their importation into or exportation "from the United States." Its prohibition, therefore, is national, and considered alone, the means of its enforcement might be such as Congress, the agency of National power, might prescribe. But it does not stand alone. Section 2 associates Congress and the States in power to enforce it. Its words are, "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

What then is meant by the words "concurrent power." Do they mean united action, or separate and independent action, and, if the actions differ (there is no practical problem unless they differ), shall that of Congress be supreme?

The Government answers that the words mean separate and independent action, and, in case of conflict, that of Congress is supreme, and asserts besides, that the answer is sustained by historical and legal precedents.* I contest the assertions and oppose to them

*The following is the contention of the Government which we give to accurately represent it: "It is true that the word 'concurrent' has various meanings, according to the connection in which it is used. It may undoubtedly be used to indicate that something is to be accomplished by two or more persons acting together. It is equally true that it means, in other connections, a right which two or more persons, acting separately and apart from each other, may exercise at the same time. It would be idle, however, to go into all the meanings which may attach to this word. In certain connections, it has a well-fixed and established meaning, which is controlled in this case."

And again, "It is to be noted that Section 2 does not say that *legislation shall be concurrent*, but that *concurrent power* to legislate shall exist. The concurrent power of the States and Congress to legislate is nothing new. And its meaning has been too long settled, historically and judicially, to now admit of question. The term has acquired a fixed meaning through its frequent use by this court and eminent statesmen and writers in referring to the concurrent power of Congress and the States to legislate."

And after citing cases, the Government says: "It will thus be seen that

the common usage of our language, and the definitions of our lexicons, general and legal.* Some of the definitions assign to the words "concurrent power," action in conjunction, contribution of effort, certainly harmony of action, not antagonism. Opposing laws are not concurring laws, and to assert the supremacy of one over the other is to assert the exclusiveness of one over the other, not their concomitance. Such is the result of the Government's contention. It does not satisfy the definitions, or the requirement of Section 2—"a concurrent power excludes the idea of a dependent power," Mr. Justice McLean in the *Passenger* cases, 7th Howard 283, 399.

Other definitions assign to the words, "existing or happening at the same time," "concurring together," "coexistent." These definitions are, as the others are, inconsistent with the Government's contention. If coexistence of the power of legislation is given to Congress and the States by Section 2, it is given to be coexistently exercised. It is to be remembered that the Eighteenth Amendment was intended to deal with a condition, not a theory, and one demanding something more than exhortation and precept. The habits of a people were to be changed, large business interests were to be disturbed, and it was considered that the change and disturbance could only be effected by punitive and repressive legislation, and it was naturally thought that legislation enacted by "the Congress and the several States," by its concurrence would better enforce prohibition and avail for its enforcement the two great divisions of our governmental system, the Nation and the States, with their influences and instrumentalities.

From my standpoint, the exposition of the case is concluded by the definition of the words of Section 2. There are, however, confirming considerations; and militating considerations are urged.

in legal nomenclature the concurrent power of the States and of Congress is clearly and unmistakably defined. It simply means the right of each to act with respect to a particular subject matter separately and independently."

*Definitions of the dictionaries are as follows: The Century: "Concurrent: **2. Concurring; acting in conjunction; agreeing in the same act; contributing to the same event or effect; operating with; coincident. 3. Conjoint; joint; concomitant; coordinate; combined.** That which concurs; a joint or contributory thing." Webster's first definition is the same as that of the Century. The second is as follows: "Joint; associate; concomitant; existing or happening at the same time."

Among the confirming considerations are the cases of *Wedding* v. *Meyler,* 192 U. S. 573, and *Nelson* v. *Oregon,* 212 U. S. 315, in which "concurrent jurisdiction" was given respectively to Kentucky and Indiana over the Ohio River by the Virginia Compact, and respectively to Washington and Oregon over the Columbia River by act of Congress. And it was decided that it conferred equality of powers, "legislative, judicial and executive," and that neither State could override the legislation of the other. Other courts have given like definitions. 2 Words and Phrases Judicially Defined, 1391, *et seq.,* Bouvier's Dictionary, Vol. 1, page—. Analogy of the word "concurrent" in private instruments may also be invoked.

Those cases are samples of the elemental rule of construction that in the exposition of statutes and constitutions, every word "is to be expounded in its plain, obvious and common sense, unless the context furnishes some ground to control, qualify or enlarge it," and there cannot be imposed upon the words "any recondite meaning or any extraordinary gloss." 1 Story, Const., Sec. 451; *Lake County* v. *Rollins,* 130 U. S. 662. And it is the rule of reason as well as of technicality, that if the words so expounded be "plain and clear, and the sense distinct and perfect arising on them" interpretation has nothing to do. This can be asserted of Section 2. Its words express no "double sense," and should be accepted in their single sense. It has not yet been erected into a legal maxim of constitutional construction, that words were made to conceal thoughts. Besides, when we depart from the words, ambiguity comes. There are as many solutions as there are minds considering the section, and out of the conflict, I had almost said chaos, one despairs of finding an undisputed meaning. It may be said that the court realizing this, by a declaration of conclusions only, has escaped the expression of antithetical views and considered it better not to blaze the trails, though it was believed, that they all led to the same destination.

If it be conceded, however, that to the words "concurrent power" may be ascribed the meaning for which the Government contends, it certainly cannot be asserted that such is their ordinary meaning, and I might leave Section 2, and the presumptions that support it, to resist the precedents adduced by the Government. I go farther, however, and deny the precedents. The Federalist and certain cases are

cited as such. There is ready explanation of both, and neither supports the Government's contention. The dual system of government contemplated by the Union encountered controversies, fears, and jealousies that had to be settled or appeased to achieve union, and the Federalist in good and timely sense explained to what extent the "alienation of State sovereignty" would be necessary to "National sovereignty," constituted by the "consolidation of the States," and the powers that would be surrendered, and those that would be retained. And the explanation composed the controversies and allayed the fears of the States that their local powers of government would not be displaced by the dominance of a centralized control. And this court after Union had been achieved, fulfilled the assurances of the explanation and adopted its distribution of powers, designating them as follows: (1) Powers that were exclusive in the States—reserved to them; (2) Powers that were exclusive in Congress, conferred upon it; (3) Powers that were not exclusive in either, and hence said to be "concurrent." And it was decided that, when exercised by Congress, they were supreme—"the authority of the States then retires" to inaction. To understand them, it must be especially observed that their emphasis was, as the fundamental principle of the new government was, that it had no powers that were not conferred upon it, and that all other powers were reserved to the States. And this necessarily must not be absent from our minds, whether construing old provisions of the Constitution or amendments to it or laws passed under the amendments.

The Government nevertheless contends that the decisions (they need not be cited) constitute precedents for its construction of Section 2 of the Eighteenth Amendment. In other words, the Government contends (or must so contend for its reasoning must bear the test of the generalization) that it was decided that in all cases where the powers of Congress are concurrent with those of the States, they are supreme as incident to concurrence. The contention is not tenable; it overlooks the determining consideration. The powers of Congress were not decided to be supreme because they were concurrent with powers in the States, but because of their source being the Constitution of the United States and the laws made in pursuance of the Constitution, as against the source of the powers of

the States, the Constitution and laws of the United States being made by Article VI the supreme law of the land, "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." *McCulloch* v. *Maryland,* 4 Wheaton 316, 426.

This has example in other powers of sovereignty that the States and Congress possess. In *McCulloch* v. *Maryland,* at pages 425, 430, Chief Justice Marshall said that the power of taxation retained by the States was not abridged by the granting of a similar power to the Government of the Union, and that it was to be concurrently exercised, and these truths, it was added, had never been denied, and that there was no "clashing sovereignty" from incompatibility of right. And necessarily; a concurrence of power in the States and Congress excludes the idea of supremacy in either. Therefore, neither principle nor precedent sustains the contention that Section 2, by giving concurrent power to Congress and the States, gave Congress supreme power over the States. I repeat the declaration of Mr. Justice McLean: "A concurrent power excludes the idea of a dependent power."

It is, however, suggested (not by the Government) that if Congress is not supreme upon the considerations urged by the Government, it is made supreme by Article VI of the Constitution. The Article is not applicable. It is not a declaration of the supremacy of one provision of the Constitution and laws of the United States over the constitutions and laws of the States. *Gibbons* v. *Ogden,* 9 Wheaton 1, 209, 211; Sec. 1838, *et seq.* 2 Story Const., 5 Ed.

The Eighteenth Amendment is part of the Constitutiton of the United States, therefore as of high sanction as Article VI. There seems to be denial of this, based on Article V. That Article provides that the amendments proposed by either of the ways there expressed "shall be valid to all intents and purposes as part of this Constitution." Some undefinable power is attributed to this in connection with Article VI as if Article V limits in some way, or defeats an amendment to the Constitution inconsistent with a previously existing provision. Of course, the immediate answer is that an amendment is made to change a previously existing provision. What other purpose could an amendment have and it would be nullified by the mythical power attributed to Article V, either alone

or in conjunction with Article VI. A contention that ascribes such power to those articles is untenable. The Eighteenth Amendment is part of the Constitution and as potent as any other part of it. Section 2, therefore, is a new provision of power, power to the States as well as to Congress, and it is a contradiction to say that a power constitutionally concurrent in Congress and the States in some way becomes constitutionally subordinate in the States to Congress.

If it be said that the States got no power over prohibition that they did not have before, it cannot be said that it was not preserved to them by the Amendment, notwithstanding the policy of prohibition was made national, and besides, there was a gift of power to Congress that it did not have before, a gift of a right to be exercised within state lines, but with the limitation or condition that the powers of the States should remain with the States and be participated in by Congress only in concurrence with the States, and thereby preserved from abuse by either, or exercise to the detriment to prohibition. There was, however, a power given to the States, a power over importations. This power was subject to concurrence with Congress and had the same safeguards.

This construction of Section 2 is enforced by other considerations. If the supremacy of Congress had been intended it would have been directly declared as in the Thirteenth, Fourteenth and Fifteenth Amendments. And such was the condition when the Amendment left the Senate. The precedent of preceding amendments was followed, there was a single declaration of jurisdiction in Congress.

Section 2 was amended in the House upon recommendation of the Judiciary Committee and the provision giving concurrent power to Congress and to the States was necessarily estimated and intended to be additive of something. The Government's contention makes it practically an addition of nothing but words, in fact denuding it of function, making it a gift of importance, not one of power to be exercised independently of Congress or concurrently with Congress, or, indeed, at all. Of this there can be no contradiction, for what power is assigned to the States to legislate if the legislation be immediately superseded—indeed, as this case shows, is possibly fore-

stalled and precluded by the power exercised in the Volstead Act. And meaningless is the difference the Government suggests between concurrent power and concurrent legislation. A power is given to be exercised, and we are cast into helpless and groping bewilderment in trying to think of it apart from its exercise or the effect of its exercise. The addition to Section 2 was a conscious adaptation of means to the purpose. It changed the relation between the States and the National Government. The lines of exclusive power in one or the other were removed, and equality and community of powers substituted.

There is a suggestion, not made by the Government, though assisting its contention, that Section 2 was a gift of equal power to Congress and to the States, not however, to be concurrently exercised, but to be separately exercised; conferred and to be exercised is the suggestion, to guard against neglect in either Congress or the States, the inactivity of the one being supplied by the activity of the other. But here again we encounter the word "concurrent" and its inexorable requirement of coincident or united action, not alternative or emergent action to safeguard against the delinquency of Congress or the States. If, however, such neglect was to be apprehended it is strange that the framers of Section 2, with the whole vocabulary of the language to draw upon, selected words that expressed the opposite of what the framers meant. In other words, expressed concurrent action instead of substitute action. I cannot assent. I believe they meant what they said and that they must be taken at their word.

The Government with some consciousness that its contention requires indulgence or excuse, but at any rate in recognition of the insufficiency of its contention to satisfy the words of Section 2, makes some concessions to the States. They are, however, not very tangible to measurement. They seem to yield a power of legislation to the States and a power of jurisdiction to their courts, but almost at the very instant of concession, the power and jurisdiction are declared to be without effect.

I am not, therefore, disposed to regard the concessions seriously. They confuse, "make not light but darkness visible." Of what use is a concession of power to the States to enact laws which cannot be

enforced? Of what use a concession of jurisdiction to the courts of the States when their judgments cannot be executed, indeed the very law upon which it is exercised may be declared void in an antagonistic jurisdiction exerted in execution of an antagonistic power?* And equally worthless is the analogy that the Government essays between the power of the National Government and the power of the States to criminally punish violations of their respective sovereignties, as for instance in counterfeiting cases. In such cases the exercises of sovereignty are not in antagonism. Each is inherently possessed and independently exercised, and can be enforced no matter what the other sovereignty may do or abstain from doing. On the other hand, under the Government's construction of Section 2, the legislation of Congress is supreme and exclusive. Whatever the States may do is abortive of effect.

The Government seeking relief from the perturbation of mind and opinions produced by departure from the words of Section 2, suggests a modification of its contention, that in case of conflict between State legislation and Congressional legislation, that of Congress would prevail, by intimating that if State legislation be more drastic than Congressional legislation, it might prevail, and in support of the suggestion, urges that Section 1 is a command to prohibition, and that the purpose of Section 2 is to enforce the command, and whatever legislation is the most prohibitive subserves best the command, displaces less restrictive legislation and becomes paramount. If a State, therefore, should define an intoxicating beverage to be one that has less than one-half of one per cent. of alcohol, it would supersede the Volstead Act and a State might even keep its legislation supreme by forestalling Congressional retaliation by prohibiting all artificial beverages of themselves innocuous, the prohibition being accessory to the main purpose of power, adducing

* The Government feels the inconsistency of its concessions and recessions. It asserts at one instant that the legislation of the States may be enforced in their courts, but in the next instant asserts that the conviction or acquittal of an offender there will not bar his prosecution in the Federal Courts for the same act as a violation of the Federal law. From this situation the Government hopes that there will be rescue by giving the Eighteenth Amendment "such meaning that a prosecution in the courts of one government may be held to bar a prosecution for the same offence in the courts of the other." The Government considers, however, the question is not now presented.

Purity Extract Company v. *Lynch*, 226 U. S. 192. *Ruppert* v. *Caffey*, 251 U. S. 264. Of course this concession of the more drastic legislation destroys all that is urged for Congressional supremacy, for necessarily supremacy cannot be transferred from the States to Congress or from Congress to the States as the quantity of alcohol may vary in the prohibited beverage. Section 2 is not quite so flexible to management. I may say, however, that one of the conclusions of the court has limited the range of retaliations. It recognizes "that there are limits beyond which Congress cannot go in treating beverages as within its power of enforcement" and declares "that those limits are not transcended by the provisions of the Volstead Act." Of course, necessarily, the same limitations apply to the power of the States as well.

From these premises the deduction seems inevitable that there must be united action between the States and Congress, or at any rate, concordant and harmonious action; and will not such action promote better the purpose of the Amendment—will it not bring to the enforcement of prohibition, the power of the States and the power of Congress, make all the instrumentalities of the States, its courts and officers, agencies of the enforcement, as well as the instrumentalities of the United States, its courts and officers, agencies of the enforcement? Will it not bring to the States as well, or preserve to them, a partial autonomy, satisfying, if you will, their prejudices, or better say, their predilections; and it is not too much to say that our dual system of government is based upon them. And this predilection for self-government the Eighteenth Amendment regards and respects, and by doing so, sacrifices nothing of the policy of prohibition.

It is, however, urged that to require such concurrence is to practically nullify the prohibition of the Amendment, for without legislation its prohibition would be ineffectual, and that it is impossible to secure the concurrence of Congress and the States in legislation. I cannot assent to the propositions. The conviction of the evils of intemperance—the eager and ardent sentiment that impelled the Amendment, will impel its execution through Congress and the States. It may not be in such legislation as the Volstead Act with its ½ of 1% of alcohol, or in such legislation as some of the States

have enacted with their 2.75% of alcohol, but it will be in a law that will be prohibitive of intoxicating liquor for beverage purposes. It may require a little time to achieve, it may require some adjustments, but of its ultimate achievement there can be no doubt. However, whatever the difficulties of achievement in view of the requirement of Section 2, it may be answered as this court answered in *Wedding* v. *Meyler, supra,* "The conveniences and inconveniences of concurrent power by the Congress and the States are obvious and do not need to be stated. We have nothing to do with them when the law-making power has spoken."

I am, I think, therefore, justified in my dissent. I am alone in the grounds of it, but in the relief of the solitude of my position, I invoke the coincidence of my views with those entertained by the minority membership of the Judiciary Committee of the House of Representatives, and expressed in its report upon the Volstead Act.

After the decision had been announced by the court, counsel for the brewers obtained leave to file a brief for a re-hearing of the case. The brief which was filed on August 6, 1920, was as follows:

"TO THE HONORABLE THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The appellant in the above-entitled cause, No. 788, pursuant to the leave granted by the court on June 7th, now presents its petition for a rehearing, and submits the following reasons why its prayer should be granted.

I

It is respectfully submitted on behalf of the appellant that the important issues presented for decision and the merits involved in the above entitled appeal, No. 788, may not have received in the oral arguments and in the decision thereon by the court the attention and consideration that their importance and magnitude called for. The time allotted for oral argument was so limited that no comprehensive explanation, presentation, or elaboration of all the complex points involved was possible, and the ruling of the court in merely stating ultimate conclusions without any exposition of its reasons has left in doubt whether points in the arguments may

not have been misapprehended or controlling decisions overlooked.

Not only is it quite unprecedented in the history of this court for it thus to dispose without opinion of great constitutional questions, but, as emphasized by Mr. Justice McKenna in his dissenting opinion, it is difficult to measure the force of the conclusions stated by the court or the deductions properly to be drawn from them. Furthermore, the conclusions do not completely answer questions actually involved in the litigation and submitted for decision. These questions, in view of their permanent importance, certainly called for the judgment of the court, and as urged by the learned Justice "they should have consideration and decision." It is, therefore, conceived with all deference that "the result is necessarily injurious both to the court and the public," if we may quote from the language of an opinion delivered at the same term of the court.

Moreover, it is a very serious and grave departure from established procedure under our system of jurisprudence for a court of final resort to dispose of litigation involving vitally important public questions of constitutional law without disclosing or declaring any reasons other than its ultimate conclusions. No important modern case involving such vital questions of constitutional law, so far as counsel have been able to find, has ever before been disposed of by any English or American court of final resort without opinion and upon a mere statement of ultimate conclusions. The precedent is believed to be dangerous to constitutional rights and liberties.

As stated by the learned Chief Justice in his concurring opinion, the court was deciding a case of great magnitude and passing upon "an amendment to the Constitution of the United States dealing with the powers and duties of the National and State governments, and intimately concerning the welfare of the whole people." The meaning and effect of such an amendment was necessarily the subject of discussion and concern in the forum of public opinion, and the failure of this court to assign any reasons for its decision has tended naturally to invite criticism and create much public dissatisfaction. It had been believed to be incumbent upon and the duty of courts of final resort, not only to decide actual con-

troversies on their merits, but so far as practicable to satisfy the public that their decisions were reached according to established principles and rules in the administration of justice, and not arbitrarily. It seems, therefore, that it is not irrelevant or improper to urge, in support of a plea for a rehearing, that public opinion has doubted and challenged the fitness of summarily deciding and disposing of a great constitutional controversy, involving vast property interests and long established legitimate industries and intimately concerning the welfare of the whole people, without disclosing any reasons for such disposition. The petitioner hopes that the court will deem it proper as well as duly respectful that its attention should be called to some typical criticisms voicing public opinion as published in the press of the country. Thus, in the editorial column of "The Sun and New York Herald" of June 10th, we find among other comments the following:

"It is indeed a misfortune that decisions concerning interests so vast and public rights so generally recognized as valid up to the present time, and especially a decision so radically destructive of accepted ideas as to the relation of the Federal Government to the States, should have been pronounced by the Court in the bald form of decrees unaccompanied by the juridical explanations which the country has learned to expect in cases of far-reaching significance and importance. In saying this The Sun and New York Herald is not criticizing the Supreme Court; it is merely concurring with the eminent Chief Justice thereof."

The remarks of the "Journal-Courier" of New Haven, Connecticut, June 9th, under the heading: "An Unreasoned Opinion," contain the following expressions:

"We have gained nothing in an understanding of the opinion of the Supreme Court with regard to the constitutionality of the Eighteenth Amendment and the enforcement act by waiting for the reasoning of the court which supported it. The eleven conclusions, which are in fact eleven rules of conduct and control, which form the opinion of the court, are unaccompanied by the reasons which led it to adopt them. This is an unprecedented attitude for the court to take and awakens throughout the country a sympathy for the resentment shown by Chief Justice White at the failure of the court to accompany its conclusions with the reasons which led to them. . . . Divisions of the Government without

consultation with the people have imposed their will upon them, and the highest court in the land, without apologies or explanations, has declared that this was all done in strict accordance with constitutional requirements. . . . It is the most remarkable incident in the legislative history of the country and in the history of the court."

And in Harvey's Weekly, a periodical of wide circulation, the following appeared in its issue of June 19, 1920, pp. 10-11:

"The other point is that whatever the word 'concurrent' may mean, it certainly does *not* mean concurrent. So much at least the Court has made unmistakable. 'Concurrent power' of Congress and the several States does not, according to the decision, mean power running together, equal power, identical power, or anything of that sort. It does not mean that the States shall have any real power at all. It means that Congress shall have plenary power and the States none, save to assent to the doings of Congress. Even that assent is of not the slightest consequence, for Congress will be just as powerful and efficient without it as with it. Laws for enforcing the Amendment must be enacted by Congress. If the States adopt laws in the least at variance with the Congressional act, they will automatically be null and void. If they make laws exactly coinciding with those of Congress, they will be altogether superfluous, a needless cluttering of the statute-book. If they make none at all, it will not matter in the slightest, for the laws of Congress will be entirely adequate without them.

"Now all that may be the very quintessence of pure reason, justice, and eternal righteousness. We shall not dispute it. But it does seem to us that in a republic it is supremely essential that the people shall understand the laws by which they are governed, so that they may obey them intelligently and with appreciation of their reason and justice. A despot may say, 'My will is the supreme law,' without giving any reasons for his will. But that will not do in a democracy. It will not do, even, for a majority thus to impose their unexplained will upon a minority. It is one of the glories of modern Anglo-Saxon jurisprudence that it countenances no 'Star Chamber' proceedings, but tries all causes openly, so that the parties to them can know all that is done. It is not enough—in this case it is conspicuously not enough—that the final decision of the Court be announced. Justice, and respect for and confidence in the judgments of a court, require that their grounds shall be disclosed to the parties in interest; and in this case the parties in interest are the forty-eight States of the Union and all their citizens."

These quotations are fairly typical of the criticisms which are to be found in the press of the country as reflecting public opinion.

Hence it is deemed to be plainly the duty of the appellant and its counsel in this test case, representing, as it does, hundreds of millions of property value, earnestly to protest that due regard for the maintenance of confidence in our system of judicial decisions, based upon assigned and disclosed reasons, and due consideration for the permanent interests of the Nation seem to dictate that the disposition of the above case should be reconsidered and a rehearing granted, to the end that the litigants as well as the public may be informed by this court of the reasons which have led to its ultimate conclusions, and that the decision may thereupon become a guide and precedent for the future. If the court could not agree upon reasons for its action, a reargument might have led to elucidation and agreement. And now the public interest and the prestige of the court alike demand the granting of a rehearing so that the cardinal rule of our system of jurisprudence may be complied with, which requires a court of final resort to state the *reasons* upon which it bases the decision of great questions of public interest.

II

If we read the conclusions announced by Mr. Justice Van Devanter in the light of the concurring opinion of the learned Chief Justice, it seems highly probable that, in respect at least of the question of the construction of the Eighteenth Amendment, the court must have misapprehended the contentions of the appellant's counsel in the above entitled appeal.

Thus, as indicated by Mr. Justice McKenna, there was no intimation whatever on behalf of this appellant that the second section of the amendment, vesting concurrent power to enforce the prohibition, enabled either Congress or the States wholly to defeat or thwart such prohibition. Nor was it suggested by the appellant that in the absence of concurrent action by Congress and the States no enforcement legislation could exist, or that until there was such concurrent action the prohibition of the first

section was to be a dead letter. To the contrary, it was expressly conceded that Section 1 of the amendment was self-executing without any enforcement legislation (*Civil Rights Cases,* 109 U. S. 3, 20), and that it was in and of itself operative to prevent either Congress or the several States from authorizing or licensing directly or indirectly any traffic in intoxicating liquors for beverage purposes. It could not, therefore, consistently or logically have been urged that without concurrent action the prohibition contained in the first section was a dead letter. And it was further clearly and unqualifiedly urged by this appellant that enforcement legislation covering the whole field of the prohibition could exist without concurrent action: that is to say, enforcement legislation by Congress in respect of interstate and foreign commerce and the government of the District of Columbia, Alaska, and other national territory, and enforcement legislation by the several States in respect of their local and intrastate affairs. This construction gave the prohibition wide scope and effect, and the situation thereunder left the amendment very far indeed from being a dead letter, and probably would accomplish all that was intended by any one who had a definite idea or intelligent conception of the meaning of Section 2. In other words, under the view advanced by this appellant, the amendment gave the force and effect of a constitutional provision to the legislative policy of Congress developed during the past thirty years, as evidenced by the Wilson Law of 1890 (26 Stat. 313, c. 728), the Webb-Kenyon Law of 1913 (37 Stat. 699, c. 90) and the Reed Amendment of 1917 (39 Stat. 1058, 1069, c. 162). The constitutionality of this legislation by Congress had been long and vigorously disputed, even by learned Justices of this court and a President of the United States, and the Eighteenth Amendment put that serious doubt at rest. Indeed, many constitutional jurists of the first rank believed that the decision of this court upholding the Webb-Kenyon Law (*Clark Distilling Co.* v. *Western Maryland Ry. Co.,* 242 U. S. 311, Justices Holmes and Van Devanter dissenting) removed the principal ground upon which the prohibition amendment was being urged for adoption, because its *ratio decidendi* enabled Congress to co-operate fully with the States by *concurring* in the application of state laws to

interstate and foreign commerce in intoxicating liquors. And there was no doubt of the constitutional power of Congress to prohibit intoxicating liquors in interstate or foreign commerce or in the national territory. At least that decision plainly so indicated.

To repeat, no such nullifying and destructive contention was advanced by the appellant either in brief or in argument at the bar as that the Eighteenth Amendment was to be or would remain a dead letter unless followed or supplemented by concurrent action by Congress and the several States. On the contrary, it was distinctly pointed out that Congress could legislate to enforce the prohibition in its sphere of exclusive power and the several States in their local spheres without any concurrent action at all, and that concurrent action was only necessary when it would be appropriate and practicable, namely, when Congress should attempt to regulate the purely internal affairs of the respective States or the States should attempt to regulate interstate or foreign commerce.

III

It is stated in the concurring opinion of the learned Chief Justice that he takes it for granted "that if the second section of the article did not exist no one would gainsay that the first section in and of itself granted the power and imposed the duty upon Congress to legislate to the end that by definition and sanction the Amendment would become fully operative." But the appellant does emphatically gainsay any such proposition of constitutional law. It is confidently asserted by its counsel that, if the second section of the Eighteenth Amendment did not exist, Congress would have no constitutional power to enforce the amendment in respect of intrastate commerce and in conflict with state legislation to the contrary. Congress would then have had power to enforce the amendment by appropriate legislation in interstate and foreign commerce and in the government of national territory, not because of any grant implied in Section 1 of the Eighteenth Amendment, but only and solely because of other clauses of the Constitution granting legislative power to Congress, such as the commerce clause in Section 8 of Article I. The prohibition con-

tained in Section 1 of the Eighteenth Amendment, although self-executing, did not in and of itself delegate any legislative power to Congress for its enforcement; it did not disclose any intention to impair the powers of local self-government as expressly reserved to the States in and by the Tenth Amendment, and it did not purport to transfer to the domain of national regulation what had always heretofore been exclusively within the domain of local self-government and state regulation. Power to enforce a constitutional amendment by appropriate legislation had to be expressly delegated to Congress in the Thirteenth, Fourteenth and Fifteenth Amendments, and similarly power had to be delegated to Congress in the Eighteenth Amendment in respect of intrastate affairs. So far as the petitioner's counsel can recall, it has never been heretofore intimated that these clauses in the prior amendments were unnecessary or superfluous.

The framers of the original Constitution inserted several prohibitions upon action by the States, *e. g.*, the enactment of bills of attainder, *ex post facto* laws, and laws impairing the obligation of contracts, but these prohibitions did not draw and were not intended to draw their enforcement within the *legislative* power of Congress. The Constitution did not grant to Congress any power to enforce these prohibitions. On the contrary, the legislative power was carefully and studiously limited to specified objects, and the general grant in the last clause of Section 8 of Article I did not include any power to enforce the specific prohibitions upon the States. The language used seems too clear to admit of any dispute as to its meaning and effect. For convenience, its wording may be here recalled, viz.:

"Section 8. The Congress shall have power . . . to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

And to repeat, it was because of the recognized necessity for an express grant or delegation of legislative power to Congress that the Thirteenth, Fourteenth and Fifteenth Amendments so provided.

As Mr. Justice Bradley said in the *Civil Rights Cases,* 109 U. S. 3, 12, 14-15:

"An apt illustration of this distinction may be found in some of the provisions of the original Constitution. Take the subject of contracts, for example. The Constitution prohibited the States from passing any law impairing the obligation of contracts. This did not give to Congress power to provide laws for the general enforcement of contracts; nor power to invest the courts of the United States with jurisdiction over contracts, so as to enable parties to sue upon them in those courts. . . . The truth is, that the implication of a power to legislate in this manner is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, and power is conferred upon Congress to enforce the prohibition, this gives Congress power to legislate generally upon that subject, and not merely power to provide modes of redress against such State legislation or action. *The assumption is certainly unsound. It is repugnant to the Tenth Amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.*"

And *a fortiori* must the present assumption be "certainly unsound," which is predicated upon the premise that if Section 2 of the Eighteenth Amendment did not exist the prohibition contained in Section 1 would in and of itself impliedly grant to Congress full legislative power to regulate the internal affairs of the States in respect of intoxicating liquors and to override and nullify state legislation to the contrary, as in this case on appeal from the District of New Jersey and in the case of the Manitowoc Products Company on appeal from the Eastern District of Wisconsin.

Furthermore, if the premise were possibly sound in any aspect, namely, that the prohibition in Section 1 of the Eighteenth Amendment might, if alone, have implied a grant of legislative power to Congress to regulate the internal commerce of the States in respect of intoxicating liquors, which would be a paramount and supreme power under Article VI, nevertheless, no such implication could arise in the present case, for the implication could not be allowable in contradiction of the express provision to the con-

trary. Assuming, for the sake of argument, that Section 1, if standing alone, would have implied supreme and paramount legislative power in Congress to enforce the prohibition by legislation—which is emphatically denied—then if Section 2 is to be given any effect whatever, it must be recognized as plainly inconsistent with any such exclusive or paramount power in Congress and as not permitting any such implication from Section 1. We are altogether incapable of comprehending how it can logically be said that Section 1 implies an intention to nullify and render abortive, idle and inoperative the express and qualifying grant in Section 2 to "the several States" of "concurrent power to enforce." *Houston* v. *Moore,* 5 Wheaton 1, 22.

In other words, whatever might be implied if Section 2 did not exist, no implication directly conflicting with and nullifying its provision can be indulged in or permitted, without violating the plain import of the language used and substituting a will and an intent other than that appearing on the face of the Eighteenth Amendment.

IV

Although it is impossible to make any confident assertion as to the basis of the ninth conclusion of the court, it seems probable that it was erroneously assumed by the majority that Article VI of the Constitution made the Volstead Act "the supreme law of the land." Mr. Chief Justice White declares in his concurring opinion:

"But as the power of both Congress and the States in this instance is given by the Constitution in one and the same provision, I again find myself unable to accept the view urged because it ostensibly accepts the constitutional mandate as to the concurrence of the two powers and proceeds immediately by way of interpretation to destroy it by making one paramount over the other."

To the same effect is the dissenting opinion of Mr. Justice McKenna, viz.:

"It is, however, suggested (*not by the Government*) that if Congress is not supreme upon the considerations urged by the

Government, it is made supreme by Article VI of the Constitution. [Does this mean that this theory was suggested or adopted by the majority other than Mr. Chief Justice White?] The Article is not applicable. It is not a declaration of the supremacy of one provision of the Constitution or laws of the United States over another, but of the supremacy of the Constitution and laws of the United States over the constitutions and laws of the States. *Gibbons* v. *Ogden,* 9 Wheaton 1, 209, 211; sec. 1828, *et seq.,* 2 Story Const., 5th ed."

Surely, it must be obvious and logically quite incontrovertible that the provision of Article VI of the Constitution does not control or apply unless "the laws of the United States" sought to be enforced against a citizen have been duly enacted *"in pursuance"* of the Constitution itself, and that, therefore, if the language of the Eighteenth Amendment requires concurrence by a State before Congressional legislation affecting the internal commerce of that State can be enforcible within its borders, then legislation by Congress without such concurrence would not be *in pursuance* of the Constitution, but in disregard of it.

It was undoubtedly because some one conceived that Article VI would have rendered legislation by Congress paramount and practically exclusive *even as to intrastate commerce in intoxicating liquors,* that the wording of the proposed amendment as formulated by the Senate was not acceptable to the House and that Section 2 was thereupon changed so as to provide for "concurrent power" vested in "the Congress and the several States," to the end that the States should retain and not surrender all controlling voice and power in the regulation of their own internal affairs.

Yet the decision of this court completely disregards and nullifies the amendment of Section 2 made by the House, and gives the Section the very same meaning and effect as if the proposal of the Senate had been accepted and not rejected by the House. Indeed, it is, with all deference, utterly incomprehensible to counsel for the petitioner how the learned Chief Justice could in one step of his reasoning concede that there was a "constitutional mandate as to the concurrence of the two powers" and that disregard of this requirement of concurrence would be proceeding "immediately by way of interpretation to destroy it by making one para-

mount over the other," but, nevertheless, accept that very conclusion by concurring in a decision which plainly destroyed the concurrence commanded in the Constitution by making the legislation of Congress paramount in respect of the intrastate commerce and domestic affairs of New Jersey and Wisconsin! It is most earnestly and deferentially submitted that an opinion ought not to remain uncorrected which fairly invites and permits any such criticism of inconsistency.

V

The Eighteenth Amendment was not a novel departure in federal legislative policy. Its direct antecedents were the acts of Congress above cited, the purpose, intent and effect of which were to render state laws applicable to and enforcible against interstate or foreign commerce in intoxicating liquors. Throughout such legislative action, however, "Congress [was] sedulous to prevent its exclusive right to regulate commerce from interfering with the power of the States over intoxicating liquor" (*Delamater* v. *South Dakota,* 205 U. S. 93, 98). Congress, in and by these statutes, had not delegated or abdicated its power to regulate interstate or foreign commerce, but it had acted in co-operation or concurrence with the several States so as the more effectively to regulate and suppress an objectionable traffic. This was made quite clear by the opinion of Mr. Chief Justice White in *Clark Distilling Co.* v. *Western Maryland Ry. Co.,* 242 U. S. 311, 331 (decided January 8, 1917), which declared that Congress was dealing with "a subject as to which both State and Nation in their respective spheres of authority possessed the supremest authority," and added—

> "Congress in adopting a regulation had considered the nature and character of our dual system of government, State and Nation, and instead of absolutely prohibiting, had so conformed its regulation as to produce co-operation [*i. e.,* concurrence] between the local and the national forces of government to the end of preserving the rights of all."

And it is entirely reasonable to assume that the same policy dictated the insertion of the concurrent power clause in the Eighteenth Amendment, so as thereby "to produce co-operation [*i. e.,*

concurrence] between the local and national forces of government to the end of preserving the rights of all" whenever co-operation or concurrence was appropriate or practicable. Indeed, the conclusion seems to counsel irresistible that the Judiciary Committee of the House, the original draftsmen and proponents of the amendment to Section 2, must have had this very language of the learned Chief Justice in mind when they framed the substitution of "concurrent power" in "the Congress and the several States" for exclusive power in Congress as proposed by the Senate. The pronouncement of the learned Chief Justice in the *Clark Distilling Co. Case* made in January, 1917, was especially before that Congress, and must have been in the minds of Representatives and Senators when they voted on the amendment to Section 2. In all reasonable likelihood it was the direct antecedent or producing cause of the amendment to Section 2, for that amendment plainly adopts and perpetuates the very suggestion of the court to provide for co-operation between Nation and State "to the end of preserving the rights of all." If this be not the true view, then the change made by the House is wholly inexplicable.

The framers of the Eighteenth Amendment, of course, knew perfectly well that under the existing Constitution exclusive and supreme power was vested in Congress over interstate and foreign commerce and the government of national territory, and that exclusive and supreme power was vested in each State over its internal or intrastate affairs. They must have appreciated that it was wholly unnecessary to grant any additional powers in these particular respects. But the framers also had been admonished and appreciated that the power of Congress to co-operate or concur with the States in allowing the sanctions of state legislation to be enforced as against interstate or foreign commerce had been gravely disputed in each branch of the Government—that is to say, in Congress, by the President and Attorney General and by learned Justices of this court (*In re Rahrer*, 140 U. S. 545, and *Clark Distilling Co.* v. *Western Maryland Ry. Co.*, 242 U. S. 311). Manifestly, it was reasonable to assume that any attempt on the part of Congress, even with the consent of the States, to enforce federal legislation under the Eighteenth Amendment by federal agencies

as against intrastate and local commerce, might be similarly challenged as of doubtful constitutionality and that the power so to enforce would depend upon the result of judicial decisions. This furnishes the logical and perhaps true reason why, adopting the suggestion made in the *Clark Distilling Co. Case,* concurrent power was vested in "the Congress and the several States," to be exercised, of course, only when concurrent power would be appropriate and practicable in the very nature of the subject matter. It could never have been reasonably conceived that the exercise of concurrent power was to be authorized or required in any case where it could not reasonably or practically be operative. No legislature, for example, could credibly assert that it had understood that the concurrent power clause had vested power in the States by inaction to prevent any legislation whatever by Congress in respect of interstate or foreign commerce or national territory.

The contention of the appellant, therefore, to repeat and emphasize it, was that the grant of "concurrent power" applied to and was exercisable only in those cases arising under our dual system of federal and state governments, each supreme within its own sphere, where it would be appropriate or practicable, and not in cases where concurrent action would obviously be practically impossible and operate to paralyze and thwart all enforcement; that is to say, concurrent action was only authorized or required if and when Congress should attempt to regulate and interfere with the internal affairs of any State, and, conversely, if and when any State should attempt to regulate and interfere with interstate or foreign commerce in intoxicating liquors.

This construction would give full operation to the prohibition contained in Section 1 of the amendment, and leave Congress and the several States still supreme in their respective spheres; it would embody in the Constitution itself the legislative policy of Congress during the past thirty years; it would conform to the recently expressed views of this court, and avoid any radical change in or impairment of the dual form and essentially federal basis of our national system; it would comply with the long settled and familiar canon of constitutional construction "which requires that effect be given to every word of the Constitution" (*Knowlton* v. *Moore,* 178

U. S. 41, 87); it would be consistent with the plan and provisions of the Constitution as a whole; it would promote co-operation or concurrence and harmonious, economical and effective enforcement of the prohibition, and it would enable Congress and the several States to adopt appropriate and efficient concurrent methods and measures of enforcement when, and only when, concurrent action was reasonably appropriate, practicable, or desirable.

The present construction of the court, however, so far as disclosed in its conclusions, makes the power of Congress practically paramount and exclusive, and gives no effect whatever to the second section of the Eighteenth Amendment as formulated by the House of Representatives and agreed to by the Senate. It treats the substantial addition then deliberately made by the House as meaningless and superfluous notwithstanding the long settled doctrine of this court that "in expounding the Constitution of the United States every word must have its due force and appropriate meaning" (*Holmes* v. *Jennison,* 14 Peters 540, 570) and that "we are forbidden to assume, without clear reason to the contrary, that any part of this most important amendment is superfluous" (*Hurtado* v. *California,* 110 U. S. 516, 534).

The eighth and ninth conclusions of the court cannot be studied without the conviction that they are in conflict with the language of Section 2 of the Eighteenth Amendment, and that they attribute no meaning or effect to the change as made by the House or to the plain and striking difference between the wording of the Eighteenth Amendment and that of the Thirteenth, Fourteenth and Fifteenth Amendments. In fact, the ninth conclusion involves a distinct self-contradiction, for in one breath it declares that the power of Congress is not exclusive and in the next breath it holds it to be paramount and therefore practically exclusive. This accentuates the criticism of Mr. Justice McKenna that he could not "confidently measure the force of the declarations or the deductions that are, or can be made from them."

The Congress and the several States must surely have understood and contemplated that the change and addition proposed by the Judiciary Committee of the House and the striking departure from familiar constitutional precedents signified *something* prac-

ticable and substantial. *Slaughter House Cases,* 16 Wallace 36, 74. The wording proposed by the House and approved by the Senate certainly indicated that *some* purpose was in mind, and that purpose reasonably was to enact a provision different from the provision in the prior constitutional amendments, and to commend the Eighteenth Amendment to the States for their acceptance upon a basis and understanding that would involve no overruling power of interference in their local affairs. The proposition submitted by Congress to the state legislatures and acted upon by the latter was not—

whether exclusive and paramount power of enforcement, even as to intrastate commerce, should be vested in Congress so as to overrule and nullify any state legislation to the contrary—

as now in practical effect *held* by this court, but—

whether the Congress and the several States should have concurrent power of enforcement in all cases where the exercise of such a concurrent power would be appropriate and practicable.

Stated in other language, but to the same purport and effect, the proposition submitted by Congress to the state legislatures and acted upon by them was not the provision originally passed by the Senate, viz.:

"The Congress shall have power to enforce this article by appropriate legislation,"

as now in practical effect *held* by the court, but that

"The Congress *and the several States* shall have *concurrent power* to enforce this article by appropriate legislation."

If the present ruling is to stand, the effect must be to attribute a meaning to Section 2 of the Eighteenth Amendment which could not reasonably have been contemplated and understood either by its framers or by the state legislatures which ratified the amendment, and a meaning which presumably might not have been acceptable either to Congress or the ratifying States.

The framers of the Eighteenth Amendment acted in the light

of its antecedents and historical background and of the long established policy of Congress, first evidenced by the Wilson Law of 1890, whilst bearing in mind the other provisions of the Constitution. So clarified, there is no difficulty in perceiving that it is highly improbable that it was intended to impair the existing exclusive and supreme power of Congress over foreign and interstate commerce and over what may be termed national as distinguished from state territory, or the existing exclusive and supreme power of the States over their local or intrastate commerce. It should follow logically that the clearest and plainest language would be necessary in order to warrant the assumption that these existing exclusive powers, so essential to the preservation of the dual and federal system, were about to be deliberately impaired by substituting therefor a power requiring concurrent action in every instance, and especially so, as this result probably would be to render the amendment incapable of practical enforcement, or as stated in the concurring opinion of the learned Chief Justice "to cause it to be productive of no results and to frustrate the obvious intent and general purpose contemplated." Such an abortive and preposterous intention could not, of course, have been in the minds of those who framed or of those who ratified the Eighteenth Amendment. And it is with all deference earnestly submitted that the language of the second section does not reasonably tend to any such absurd or irrational import or result if we will only construe such language in the light of the antecedents of the amendment and the other provisions of the Constitution.

It was perfectly natural and logical for Congress in intelligently and patriotically dealing with the dual and federal system of government established by and under the Constitution of the United States, to grant to Congress power to coöperate in the enforcement of prohibition in the internal affairs of the several States and conversely to grant to the States power to coöperate in the enforcement of federal prohibition in respect of interstate or foreign commerce with the concurrence of Congress. Congress and the States could not be left with equal but independent and uncontrollable power to regulate matters within the jurisdiction of each other. Conflict and clashing of authority would then have been

certain, and it must have been in order to prevent otherwise unavoidable conflict, that it was determined to require that the exercise of such overlapping and possibly conflicting power should be concurrent, and thus on the one hand leave the States as they were before, without power to interfere with or regulate foreign or interstate commerce in intoxicating liquors unless Congress concurred in such interference or regulation (as, *e. g.,* under the Wilson Law, the Webb-Kenyon Law and the Reed Amendment), and on the other hand leave Congress without power to interfere with or regulate the internal affairs and commerce of the States unless the States respectively concurred in such local interference or regulation.

Under the conclusions announced by the court, however, the express grant of "concurrent power" to "the Congress and the several States" did not mean what it said, but on the contrary meant that paramount power was being vested in Congress and no practical power at all in the States even as to their own internal affairs. Of course, to assert, as the conclusions announced imply, that the power of Congress under Section 2 is paramount even over the internal affairs of the States, is practically to deny the latter any concurrent power whatever. Yet this court had declared in the *Passenger Cases,* 7 Howard 283, 396, 399, that "a concurrent power excludes the idea of a dependent power."

The clause expressly providing that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation" cannot mean one thing as applied to the action of Congress and quite another and radically different thing when applied to the action of the States in relation to identically the same subject matter. It cannot mean that if there be conflict, the action of Congress must control, for that would plainly be to say that the power of the States was not concurrent but subordinate and inferior and, in practical effect, no power at all. If, therefore, the language in question does not authorize the States to invade the field of federal jurisdiction, *i. e.,* interstate and foreign commerce, without the concurrence of Congress, it must be plainly illogical and inconsistent in the extreme to hold that it nevertheless authorizes Congress to invade the field of state jurisdiction

without the concurrence and in defiance of the legislation of the States. Yet that is the result of the decision of this court!

VI

Even if the language used by Congress in formulating Section 2 of the Eighteenth Amendment, according to the plain meaning of the words used, created a situation rendering the amendment in the eyes of the court very difficult of practical enforcement, this did not warrant a construction totally at variance with the ordinary import of the language which Congress deliberately used and the state legislatures ratified. If the words used embody a definite meaning, that meaning alone is the one which the court was at liberty to say was intended to be conveyed, for the framers "must be understood to have employed words in their natural sense, and to have intended what they have said" (Chief Justice Marshall in *Gibbons* v. *Ogden,* 9 Wheat. 1, 188). As this court speaking by Mr. Justice Holmes said in the case of *Wedding* v. *Meyler,* 192 U. S. 573, 585, cited to the court by the appellant:

"The conveniences and inconveniences of concurrent jurisdiction both are obvious and do not need to be stated. We have nothing to do with them when the law-making power has spoken."

In the case at bar, the decision of the court in practical effect amounts to what, for want of a better term, should be called judicial legislation, for it attributes to Congress and the ratifying States an intention which the language they used does not warrant but in fact plainly repudiates. Such, unfortunately, is the impression created upon the public mind. Thus, in the New York "Evening World" of June 9th is the following criticism:

"For the first time the Eighteenth Amendment introduces into the Constitution a provision that the Congress and the States shall have 'concurrent power' of enforcement. The majority opinion makes blank paper of this clause, first by a negation, saying that it 'does not enable Congress or the several States to defeat or thwart the prohibition, but only to enforce it by appropriate means,' which nobody has denied; and secondly, that 'the power confided to Congress is no wise dependent on or affected by action or inac-

tion on the part of the several States or any of them,' which is a reversal of the plain language of the amendment. . . .

"On many occasions courts have nullified laws for indefiniteness and obscurity. In this instance the prevailing opinion simply repeals or disregards a part of the Constitution of the United States which is neither ambiguous nor meaningless. The court has amended the amendment."

Under the ninth conclusion stated by the court, Congress was vested with an independent and paramount power *even as to intra-state affairs*—that is to say, a power "in no wise dependent on or affected by action or inaction on the part of the several States or any of them"; and this is declared to be so in the very teeth of a grant purporting clearly to be, not of independent and paramount power, but of "concurrent power to the Congress and the several States," and notwithstanding the fact that the Senate had proposed and passed a provision granting independent and paramount power of enforcement to the Congress (as in the Thirteenth, Fourteenth and Fifteenth Amendments) and the House had refused to concur therein but had amended the section so as expressly to grant to "the Congress and the several States concurrent power to enforce."

For the court now to construe and enforce the second section of the Eighteenth Amendment as if to every intent and purpose the proposal of the Senate had not been amended, is judicial legislation, and gives an effect to such section directly contrary to the intention of the framers, as that intention is irrefutably disclosed in the history of the measure and the language substituted by the House and finally adopted.

In view of the recent decision of the court in the *Stock Dividend Case* (*Eisner* v. *Macomber,* Oct. Term, 1919, No. 318, decided March 8, 1920), it was assumed by counsel for the appellant that it was unnecessary to argue at any length the proposition that Congress could not by any definition it might adopt extend or expand the prohibition contained in Section 1 of the Eighteenth Amendment, which is expressly confined to *"intoxicating liquors,"* so as to include and prohibit concededly *non-intoxicating liquors.* The case cited was directly in point and seemed to be controlling,

and the language of the opinion of the court reasonably precluded further argument, viz.:

"Congress cannot by any definition it may adopt conclude the matter since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised."

The case at bar was much stronger and plainer than the *Stock Dividend Case,* because herein the Government had solemnly conceded of record, and this court was therefore bound to assume, that the definition contained in Section 1 of Title II of the National Prohibition Act of October 28, 1919 (commonly called the Volstead Act, 41 Stat. 305, c. 28), included beverages which as matter of fact were not "intoxicating liquors" and that the beverages being manufactured and sold by this appellant were not as matter of fact intoxicating liquors AND HENCE NOT WITHIN THE PROHIBITION OF SECTION 1 OF THE EIGHTEENTH AMENDMENT. It was further assumed as settled law requiring no argument, that the mere fact that the prohibition of non-intoxicating beverages might, in the judgment of Congress, tend to render more effective the enforcement of the prohibition against intoxicating liquors, would clearly not support or uphold legislation by Congress going far beyond the express prohibition of intoxicating liquors in the Constitution, "from which alone [Congress] derives its power to legislate, and within whose limitations alone that power can be lawfully exercised." *United States* v. *Dewitt,* 9 Wall. 41; *Civil Rights Cases,* 109 U. S. 3; *Hodges* v. *United States,* 203 U. S. 1; *Hammer* v. *Dagenhart,* 247 U. S. 251.

It was not conceived that "special constitutional principles exist against strong drink" (Mr. Justice Holmes dissenting in *Knickerbocker Ice Co.* v. *Stewart,* Oct. Term, 1919, No. 543, decided May 17, 1920), or that special rules or principles of interpretation or construction applied to constitutional provisions or statutes relating to intoxicating liquors, or that the property rights and liberties of those engaged in manufacturing and distributing concededly non-intoxicating beverages would be determined by any other rules or reasoning than those which generally protected the property rights

and liberties of other citizens. Even if those trading in intoxicating liquors could be outlawed and placed in a class by themselves and arbitrarily denied the protection of the Constitution, it did not follow and it was not contemplated as possible that citizens trading in concededly and indisputably non-intoxicating beverages could be similarly outlawed and denied the equal protection of the Constitution.

The enactment in question purports on its face to constitute a definition of the term "intoxicating liquors" as used in the Eighteenth Amendment, and no more, and it was enacted avowedly as and for a definition of that term. That is its declared intent or purpose as plainly as language can express any concrete thought. Its sole intent and purpose were to define intoxicating liquors. There is nothing whatever in the whole act to indicate in the slightest degree that the language was intended to be, not a definition at all, but a provision supplementing and expanding the Eighteenth Amendment, so as to extend its prohibition to non-intoxicating beverages upon the idea or theory that such additional and collateral prohibition would render more effective the constitutional prohibition against "intoxicating liquors for beverage purposes." Definition of the term "intoxicating liquor" is one distinct and concrete thought, and expresses a definite intent or purpose; the banning of non-intoxicating liquors is quite an independent and different thought, intent and purpose.

Had the framers of the Eighteenth Amendment conceived that the vesting of power in Congress to prohibit non-intoxicating liquors would be necessary or desirable, there cannot be the slightest doubt that appropriate language to express this simple thought would have been readily found. The subject must have been in the minds at least of the promoters of the amendment, for they must have been familiar with many state statutes which prohibited non-intoxicating liquors as incidents and part of the prohibition of all alcoholic liquors. The decision of this court in *Purity Extract Co.* v. *Lynch,* 226 U. S. 192, was repeatedly referred to in the proceedings before the Judiciary Committees of House and Senate. It had previously been proposed that the prohibition and power of enforcement should extend to all "alcoholic" liquors whether or

not intoxicating (see Senate Rep. No. 52, 65th Congress, 1st session, June 11, 1917, p. 3), but this proposition was not acceptable to Congress. The power of enforcement was, on the contrary, expressly limited to the prohibition of intoxicating liquors contained in Section 1, and no broader power was conferred and no broader prohibition intended. Yet under the legislation now upheld by this court as constitutional, the Eighteenth Amendment is practically made to read as if the whole field of beverages, non-intoxicating as well as intoxicating, had been intentionally comprehended and transferred to Congress for regulation as it saw fit or deemed necessary!

The only possible theory upon which the court could have sustained the prohibition of non-intoxicating beverages was that such prohibition was appropriate legislation because intended to enforce more effectively the prohibition against intoxicating liquors. But this is pure speculation. The act of Congress is wholly silent as to any such thought, intent, or purpose, and in adopting any such theory the court is speculating and possibly attributing to the members of both Houses of Congress an intent which they did not have and possibly in direct conflict with what they understood.

Indeed, no more objectionable or dangerous doctrine has been ever suggested than that an act of Congress, clearly avowed on its face to be only intended for a definition of a constitutional term, can be sustained by the courts as indicating an entirely different intent and operation and upon a theory perhaps never in the minds of the legislators themselves. Such a practice, if tolerated, would enable the courts to attribute to a statute an intent or meaning not understood or contemplated by those who enacted it and possibly in direct conflict with their actual intent, besides, in the case at bar, being not at all warranted by the language they used.

Although the provision making the test an alcoholic content of one-half of one per cent., that is, fourteen drops of alcohol in a glass containing six ounces or twelve tablespoonfuls of liquid, is conceded to be false and arbitrary as a definition of the term "intoxicating liquors," an adjudication that such a definition was invalid would not have impaired the power of Congress to enforce

the prohibition against intoxicating liquors by proper definitions. A ruling that Congress could not adopt an indisputably false, arbitrary and oppressive definition, would not have prevented its adopting a proper and honest definition. What percentage of alcohol will render a beverage intoxicating is a matter of degree, and, within the field of reasonable doubt or honest differences of opinion, an approximate standard fixed by Congress in defining intoxicating liquors ought to prevail. But this does not mean that the power to define can be exercised arbitrarily and abused, and that a definition concededly arbitrary must be accepted and enforced by the courts. Such a principle would be destructive of many constitutional rights and liberties, and the precedent now established is most objectionable and dangerous.

VIII

In support of the eleventh conclusion announced by the court, which is interpreted to mean that the power granted to Congress in and by the Eighteenth Amendment extends to concededly non-intoxicating beverages, the case of *Jacob Ruppert* v. *Caffey*, 251 U. S. 264, is cited by the court. But that case is plainly not an authority in point and does not uphold the conclusion stated by the court.

In the first place, the *Ruppert Case* did not present any question as to the definition of a constitutional term. No such point was argued. It involved only the exercise of the war powers of Congress. The war powers of the Nation being at least as broad and far-reaching as the police powers of the States, it was reasoned and it logically followed that anything that was warranted and had been upheld as a constitutional exercise of state police powers would be within the war powers of Congress. The statute was sustained solely because of the war emergency, for Mr. Justice Brandeis, delivering the opinion of the court, stated at p. 301:

"Prohibition of the manufacture of malt liquors with an alcoholic content of one-half of one per cent. or more is permissible only because, in the opinion of Congress, the war emergency demands it."

The references in the opinion of Mr. Justice Brandeis to state statutes and precedents were made for the purpose of establishing the premise that the provision of the statute then in question was not unreasonable or arbitrary as a war measure. Obviously, as the war power was the most comprehensive and illimitable of all governmental powers of Nation or State alike, it manifestly followed that if a legislative measure as applied to a particular subject matter would be within the constitutional exercise of the police powers of the States, a similar measure would necessarily be within the war powers of Congress. The illustrations meant no more.

Not only was the court in the *Ruppert Case* not called upon to construe and apply a definition of a constitutional term, but it was not called upon to consider and determine whether power to enforce a constitutional prohibition expressly confined and limited to "intoxicating liquors for beverage purposes" would authorize Congress to prohibit non-intoxicating liquors or liquors not used for beverage purposes, and it was furthermore not called upon to consider and determine whether power to enforce a prohibition so confined and limited to "intoxicating liquors" was as broad and unlimited as the police power of the States. Nor was any such point argued. The police powers of the States are clearly much broader than the limited power delegated to Congress in the Eighteenth Amendment, which is expressly confined to "intoxicating liquors." This court has characterized the state police power as "the least limitable of the exercises of government" (*Hall* v. *Geiger-Jones Co.,* 242 U. S. 539, 548), and certainly no such characterization can be applied to any power yet delegated to Congress except, of course, the war power.

Unfortunately, the questions as to the power of definition and enforcement were not argued orally at the bar on behalf of the appellant. The time allotted was unavoidably consumed in discussing on the one hand the validity of the Eighteenth Amendment and on the other hand the proper and true construction of the term "concurrent power" as used in Section 2. No time remained to discuss the question of definition or the question of the extent of the power of enforcement vested in Congress. Had there been time for further and adequate oral argument, all these questions

would have been as fully argued as their importance demanded, and such argument might have clarified the subject and enabled the court to reach conclusions different from those announced.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the public interests and the ends of justice will be served if this court shall now grant a rehearing and afford counsel for this appellant opportunity adequately to present to the court the important questions suggested above, involving the construction of the Eighteenth Amendment and the legislative power of Congress thereunder. Your petitioner accordingly prays that this cause be restored to the docket and that a reargument be ordered.

The undersigned members of the bar of this Honorable Court and of counsel for the petitioner conceive and represent that it is eminently proper that this appeal should be reheard and reconsidered by this court, and they certify that this petition is presented in good faith and in the profound conviction that it is essential that such momentous questions of permanent public importance affecting and interesting the citizens of the Nation in every State and in all parts of the national territory should not be finally adjudicated by this court without opportunity for full and exhaustive argument at the bar, or without the disclosure of the reasons which lead this court to its ultimate conclusions.

New York City, August 5, 1920.

CHRISTIAN FEIGENSPAN, a corporation, Petitioner,
by Christian W. Feigenspan, its President.

ELIHU ROOT,
WILLIAM D. GUTHRIE,
Of counsel for the petitioner-appellant.

FACTS REFUTE UNFAIR CHARGE

When, in April, 1917, the United States declared war upon Germany, the professional prohibitionists of the country, marshalled by the Anti-Saloon League, were quick to seize an exceptional opportunity. By playing upon the patriotism, the doubts and the prejudices of the population, and by utilizing every crisis to enforce their argument, they found a way to take toll, as it were, out of the very blood and agony of the world and to advance their cause exceedingly. The columns of the press were filled with highly-colored propaganda and though their misstatements were repeatedly refuted, they were as often reiterated with unblushing effrontery.

The story that the American brewing industry was controlled by German capital, and that those engaged in it were disloyal, was characteristic of their tactics. It was made with ever increasing emphasis as the war continued, but it always took the form of the broadest generalizations and was confined to the industry as a whole. No individual brewer or brewing concern was ever mentioned, and hence no accuser could be held to answer in a court of justice. The prohibitionists do not lack in cunning. But so industriously was the tale circulated, that the Senate of the United States directed its Judiciary Committee to investigate this and other allegations.

The investigation occupied the time of a sub-committee of the Judiciary Committee for several weeks in the fall of 1918, but, though every effort was made to surround it with sensation, it fell flat. The sub-committee could discover no act savoring of pro-Germanism on the part of the brewing industry or any individual brewer and its finding on that score was expressed as follows:

"That with a view of using it for their own political purposes they (the brewers) contributed large sums of money to the German-American Alliance, many of the membership of which were disloyal and unpatriotic."

The evidence before the Committee showed that the contributions by the United States Brewers' Association to the German-American Alliance, had been made solely in the belief that opposition to prohibition would be strengthened thereby and that they had ceased not only long before the United States went into the war but even before there seemed to be a remote prospect of such a step and of course before any person connected with the Alliance had been suspected of disloyalty. The Alliance, it may be remarked further, was one of the few organizations ever chartered by the Congress of the United States and for many years it enjoyed the favor of officials and the press and the approbation of the public.

There is not and never has been any German capital invested in American breweries. About 10 per cent. of the capital in the industry represents investment by subjects of Great Britain. There are a great many breweries, of course, controlled by persons whose names indicate German extraction and this seems to be the only basis for the charge brought against the industry. These plants were founded in large part by men who fled from Germany after the revolutionary movement of 1848 and came to this country to find freedom. By every instinct and tradition their descendants would be opposed to the tyranny of the Hohenzollerns. Moreover, the German Imperial Government for many years, by methods strikingly akin to those employed by prohibitionists endeavored to discredit American beer, by attacks upon its wholesomeness and purity. Wherever American beer competed with German beer, this covert slander had to be met and overcome.

Another finding of the Senate investigators deserves some attention. It is as follows:

"That to suppress and coerce persons hostile to, and compel support for them, they (the brewers) have resorted to an extensive system of boycotting unfriendly American manufacturing and commercial concerns."

In recent years a number of individuals have joined hands with the Anti-Saloon League and other prohibition bodies, in the effort to destroy the brewing business. At the same time many of them have not been averse to taking the money of the brewer for

machinery, vehicles or supplies. That the brewer objected to giving any part of his business to the gentry who made a practice of hunting with the hounds while they pretended to run with the hare, scarcely seems to need apology. The office of the United States Brewers' Association was, at times, asked as to the attitude upon prohibition of persons and concerns seeking orders from brewers. Inquiries were carefully made and the information gathered supplied to members. The individual brewer was left to act upon such information, according to his best judgment. There was never any suggestion of a boycott and never any attempt to bring pressure to bear upon a person because of his opinion.

Finally, it may be pointed out that the charge contained in the finding was obviously untrue for if the brewers had violated the law of the land they would have been held to answer in the courts.

WAR BEER NON-INTOXICATING

In the proclamation of the President issued under the Lever Food and Fuel Control Act, he was bound to consider not merely the saving of materials, but also the conservation of man power for war purposes. Consequently his action in limiting the alcoholic content of beer to 2.75 per cent. by weight, had a double significance, for beer of such strength was and is non-intoxicating.

This was the central fact upon which the first suits filed by the brewers in the Federal Courts hinged. Only intoxicating liquors were prohibited by the original War Prohibition Act, and the brewer, knowing that his product was non-intoxicating, contended that it had not been placed under the statutory ban. The opinions and scientific tests by experts amply confirmed this view.

In April, 1919, a series of experiments was conducted by Edward M. Pemberton, M.D., B.Sc. professor of psychology and pharmacology of the University of Arkansas. Before the experiments he had believed that a beverage containing such an amount of alcohol would intoxicate. His solution consisted of 2.75 per cent of alcohol in water (in one instance flavored with lemon juice) and his subjects were the students and attachés of the University. Each of the subjects drank all of the alcoholized water they could hold in periods ranging from less than two hours to almost eight hours, the quantities ranging from 2.1 quarts to 7⅓ quarts and in no instance was the slightest sign of intoxication manifested.

Dr. Pemberton's experiments were made independently, having no connection with the legal proceedings. They carried greater weight from the fact that he used plain water as the diluting agent of the alcohol. The solid content of beer (averaging about 5 per cent) would have acted as a deterrent to intoxication.

CASE No. 1

Dr. Pemberton first experimented upon himself. He is 36 years of age, weighs 175 pounds. He has not used alcohol as a beverage

for years and is rather susceptible to the effects of alcohol, as evidenced by the fact that some years ago he was appreciably affected by several glasses of port wine and on another occasion by two glasses of gin fizz.

He states that he approached the experiments with the opinion that a reasonable amount of this percentage of alcohol would cause intoxication.

April 6, 1919, had breakfast at 6.30 a. m. and did not eat again until 7 o'clock p. m., so that his experiment was conducted on an empty stomach. He took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
12 o'clock	500
12.35 p. m	500
1.10 p. m	500
2.40 p. m	500
3.10 p. m	500
4.00 p. m	500
4.30 p. m	500
5.00 p. m	500
5.30 p. m	500

Total, 4,500 cubic centimeters equal to 4½ liters, equal to 4¾ quarts.

He states that, aside from a slight disturbance of the stomach due to the quantity of the fluid, he went about and made his visits, talked on various subjects without any noticeable effects, and that he felt convinced that his stomach could not contain a sufficient amount of the solution to produce intoxication.

CASE NO. 2

April 7, 1919, subject 26 years of age, weight 165 pounds; student. He had not touched alcohol in any form for months, and was not even a moderate drinker.

He had lunch at 12.30 and then took the following quantities of 2.75 per cent alcohol by weight in water solution:

	Cubic centimeters
3.45 p. m	500
4.15 p. m	500
4.50 p. m	500
5.10 p. m	500

Total, 2,000 cubic centimeters, equal to 2 liters, or 2.1 quarts. Subject showed no appreciable symptoms and felt perfectly normal.

CASE No. 3

Same subject as in experiment No. 2, but on another day; had breakfast at 8.30 a. m. Then took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
9.35 a. m.	500
9.45 a. m.	500
10.15 a. m.	500

	Cubic centimeters
11.30 a. m.	500
12.00 noon	500
3.45 p. m.	500
4.05 p. m.	500
4.35 p. m.	500
4.55 p. m.	500
5.22 p. m.	500
5.32 p. m.	500

Total, 5,500 cubic centimeters, equal to 5.4 liters, equal to 5.8 quarts. His locomotion, reflexes, and conversation were normal; apparently the only effect was experienced from the bulk of the fluid which he had ingested.

CASE No. 4

Subject the same as in cases 2 and 3. Had breakfast at 9 a. m. and lunch at 1 p. m. Took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
11.15 a. m.	500
11.45 a. m.	500
12.30 p. m.	500
1.35 p. m.	500
1.45 p. m.	750
2.15 p. m.	500
2.45 p. m.	500
3.15 p. m.	500
3.45 p. m.	500
4.15 p. m.	500
4.45 p. m.	500
5.15 p. m.	500

Total, 6,000 cubic centimeters, or 6 liters, or 6⅓ quarts. Not the slightest symptom of intoxication appeared in the subject; he conversed on technical topics, his locomotion was perfect.

CASE No. 5

April 9, 1919, subject 29 years of age, weight 140 pounds, occupation dispensary drug clerk. Had breakfast at 8.30 a. m. and lunch at 1 p. m., and then took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
9.50 a. m	500
10.10 a. m	500
10.35 a. m	500
11.05 a. m	500
4.25 p. m	1,000
4.58 p. m	500
5.25 p. m	500
5.30 p. m	500

Total, 4,500 cubic centimeters, equal to 4.5 liters, or 4¾ quarts. There was no apparent effect upon the reflexes or locomotion; conversation normal. Experienced pressure in the stomach due to the bulk of the fluid.

CASE No. 6

April 12, 1919, subject's age 30, weight 166 pounds, occupation student. He breakfasted at 7.45 a. m., and had lunch at 12 o'clock; had not taken any alcohol in any form for months and admitted that he was extremely susceptible to any form of stimulants. Expressed the fear that he might become intoxicated. Took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
8.17 a. m	1,000
9.00 a. m	500
9.45 a. m	500
11.50 a. m	500
2.20 p. m	500
2.56 p. m	500
3.40 p. m	500
4.35 p. m	500
5.03 p. m	500

Total, 5,000 cubic centimeters, equal to 5 liters, or 5.3 quarts. Did not become intoxicated, but as the experiment progressed the first effects of the administration of 1,000 cubic centimeters upon the reflexes became less and at the conclusion of the experiment were entirely normal.

CASE No. 7

May 3, 1919, subject's age 25 years, weight 155 pounds, occupation student. Does not use alcohol as beverage; took following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
2.37 p. m.	1,000
2.48 p. m.	500
2.55 p. m.	500
3.25 p. m.	500
3.55 p. m.	500

Total, 3,000 cubic centimeters or 3 liters, equal to 3 quarts. Both locomotion, reflexes, and conversation were normal. Was not intoxicated.

CASE No. 8

May 3, 1919, subject 26 years old, weight 155 pounds, occupation shoe clerk. Lunch at 1 p. m. Took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
2.45 p. m.	1,500
3.15 p. m.	500
3.45 p. m.	500
4.15 p. m.	500
4.45 p. m.	500

Total, 4,000 cubic centimeters, equal to 4 liters, or about 4⅕ quarts. Reflexes, conversation, and locomotion normal; was not intoxicated.

CASE No. 9

May 3, 1919, subject's age 20 years, weight 140 pounds, occupation drug clerk. Had lunch at 1 p. m., and took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
2.30 p. m.	1,500
3.00 p. m.	500
4.00 p. m.	500
4.30 p. m.	500
4.32 p. m.	500
4.48 p. m.	500
4.50 p. m.	500
5.20 p. m.	500

Total, 5,500 cubic centimeters, equal to 5.5 liters, or to about 5.8 quarts. Pressure of the fluid upset the stomach. Conversation and reflexes normal during and after the conclusion of the experiment; locomotion perfect; subject not intoxicated.

CASE No. 10

May 3, 1919, subject 20 years of age, weight 133 pounds, occupation student. He does not use alcohol in any form. Had lunch at 1 p. m.; took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
2.50 p. m.	1,000
2.54 p. m.	500
3.26 p. m.	500
4.16 p. m.	500
4.34 p. m.	500

Total, 3,000 cubic centimeters, or 3 liters, equal to 3 quarts. Reflex stimulation of the eyes; locomotion, conversation, and reflexes normal. Was not intoxicated.

CASE No. 11

May 10, 1919, subject aged 54 years, weight 178 pounds; janitor. Had breakfast 6.30 a. m., lunch at 1 p. m. Took the following quantities of 2.75 per cent alcohol by weight:

	Cubic centimeters
10.08 a. m.	500
10.25 a. m.	500
10.45 a. m.	500
11.11 a. m.	500
12.29 p. m.	500
12.50 p. m.	500

	Cubic centimeters
1.30 p. m.	500
2.10 p. m.	500
2.40 p. m.	500
3.05 p. m.	500
4.40 p. m.	500
5.15 p. m.	500
5.40 p. m.	500

Total, 7,000 cubic centimeters, or 7 liters, or 7⅓ quarts. No apparent effect on reflex or otherwise. Was not intoxicated. This subject had used alcohol during his life, but not for some time prior to the test because of the difficulty to obtain it in that particular State.

CONCLUSION

Each of the subjects expressed confidence that he could not hold enough of 2.75 per cent alcohol by weight to become intoxicated. This was likewise the observation of the experimenter. Symptoms which appeared during the course or at the conclusion of the experiments were due either to the pressure of the fluid in the stomach or to the reflex stimulation of the alcohol. By reflex stimulation of the alcohol is meant its local effect on the mucous membrane or lining of the throat or stomach of the individual before the absorption of the alcohol, and consequently before it enters the blood and is taken to the tissues. Consequently the effect is local and not systemic, and this effect is not cumulative and tends to become less and less. In no instances were the reflexes, conversation, or locomotion of the individual other than normal at the conclusion of the experiment.

Dr. Pemberton gives his opinion based upon those experiments and many others conducted on animals, that a normal individual cannot drink a sufficient quantity of 2.75 per cent alcohol to produce intoxication.

During the month of June, 1919, Prof. Harry L. Hollingworth, professor of psychology at Columbia University, conducted in his laboratory a series of extensive tests to note the psychological effects of the drinking of various quantities of beer. These tests

were very elaborate, and some of the conclusions produced therefrom are here presented:

The subjects used in this investigation ranged from a total abstainer, through occasional and moderate users, to a case of fairly regular but not excessive user of alcoholic beverages.

They ranged in age from just over 21 years to nearly 30 years.

They varied in body weight from 106 pounds to over 160 pounds, and in height from 5 feet 4½ inches to 6 feet 2½ inches.

They ranged in general health from a very poorly nourished man with little appetite and a stomach easily upset to a regular member of a university rowing crew, accustomed to strenuous exercise. Several of the men had seen Army or naval service.

They ranged in general disposition from a man of modest demeanor, quiet attitude, and scholarly interests, to one naturally given to argument, boasting, physical demonstration, and boisterous playfulness, through several intermediate degrees.

The doses of beer ranged from three 12.5-ounce bottles, the amount, approximately, which the average human stomach can hold at one time, to the maximum amount which the heaviest of the six drinkers could consume in a period of two and a half hours. In time of administration the doses varied from one bottle in half an hour to one bottle every 10 minutes for a period of an hour after already having taken three bottles in the previous hour and a half and drunk beer in large amounts during the preceding week, with eight bottles on the preceding two days.

Since the effects of the beer taken into the stomach are found to disappear in from one to two hours, it is believed that this schedule of doses represents the maximum effect that can be secured from drinking beer containing not more than 2¾ per cent alcohol by weight.

The processes tested and measured ranged from simple tests of motor speed and the reflexes involved in the heart beat, through processes involving steadiness of arm and hand, coordination of eye and hand, control of speech processes, forming of simple associative bonds in learning, up to the higher mental processes involved in reacting to logical relations and in mental calculation.

All the recognized scientific precautions were observed through-

out the experiment. A control dose was used, resembling as closely as possible the standard beer. Blank days were also introduced on which no doses at all were given. The subjects were unaware of the way in which their records were influenced, except from introspection. The experimenters did not know on any given day the nature of the dose under the influence of which the men were working. The subjects did not know that a "control" dose was part of the technique.

The effects are most marked in steadiness and in mental calculation. They are next most conspicuous in tapping, in learning, and in naming opposites, and least of all in coordination and in color naming (control of speech).

The maximum influence on the score, that shown in the steadiness test, is only about half as great as the influence, on this same function, of the amount of caffein contained in two ordinary cups of coffee, and the unsteadiness produced by three or four bottles of beer is approximately equal to that produced by a hearty meal (fruit, fish, roast beef, potatoes, peas, asparagus, lettuce, tomatoes, strawberry shortcake).

The striking effect on the pulse rate is considerably less than the similar acceleration that ensues after eating a hearty meal, such as that above described.

The influence of the beer on the remaining processes is entirely comparable in amount (although in some cases different in direction) to the effects produced on the same processes by the amount of caffein contained in two ordinary cups of coffee. These amounts were endured here only because the compensation of the subjects for the whole experimental period depended on their persisting to the end of the investigation and the last bottles of beer were uniformly drunk under protest and with loathing. The symptoms of unusual conduct produced on the final beer day in this experiment on the part of two of the subjects were only attained by their going without food throughout the day, and by the prescription of the doses in a scientific fashion so as to produce the maximum possible result, taking advantage of all possible cumulative effect by gradually increasing the amount of beer taken into the system up

to the point at which the effects of the beer first taken had definitely begun to disappear.

Under this extreme influence there were none of the symptoms commonly associated with alcoholic intoxication—no falling down, no staggering, no obscenity, no personal untidiness, no fighting, and three of the subjects showed no signs to expert observers of having taken liquor at all.

In order to present to the court the proof of the non-intoxicating quality of 2.75 per cent beer, counsel for the brewers secured the services of some of the most eminent physiologists, chemists and medical practitioners in the country who furnished affidavits based upon their own or others' experiments. Among these experts were the following:

Dr. Hobart Amory Hare, M.D., and B.Sc., Med. Sch. University of Pennsylvania, professor of Therapeutics, Materia Medica and Diagnosis, Jefferson Med. Coll., Philadelphia, formerly Demonstrator of Experimental Therapeutics, Univ. of Pa., visiting physician to Jefferson Hospital and other hospitals for 28 years, member of American Physiological Soc., Ass. of Am. Physicians, Am. Medical and Pathological Soc. of Phila., author "Text Book of Practical Therapeutics with Special Reference to the Application of Remedial Measures in Disease and Their Employment upon a Rational Basis," "Diagnosis in the Office and at the Bedside, the Use of Symptoms and Physical Signs in the Diagnosis of Disease"; "Text Book of the Practice of Medicine for Students and Practitioners"; "National Standard Dispensatory, Containing the Natural History, Chemistry, Pharmacy, Actions and Uses of Medicines" (in conjunction with Charles Caspari, Jr., Phar.D., and Henry H. Rusby, M.D.).

Dr. John Marshal, M.D., Univ. of Pa., special student Univs. Goettingen and Tuebingen and Nat. Sc.D. of latter; professor of Chemistry and Toxicology Mec. Sch. Univ., Pa., for upwards 20 years, and Dean Medical Faculty 1892-1902; co-author (with G. E. Abbot) "Courses for Qualitative Testing"; co-author (with Edgar F. Smith) "Chemical Analysis of the Urine"; translator Medicus' "Qualitative Analysis," member Am. Chemical Soc., Am.

Soc. Biological Chemists, Am. Physiological Soc., Am. Philosophical Soc.

Dr. Smith Ely Jelliffe, M.D., A.M., and Ph.D., Columbia Univ.; interne hospitals Brooklyn, Vienna, Paris, London, 1889-92; Asst. Pathologist Methodist-Episcopal Hosp., Brooklyn, 3 years Clinical Assistant, Board of Health, Brooklyn; Instructor, later Prof. Toxicology and Pharmacognosy, Dept. Pharmacy, Columbia Univ. 1894 for about 15 years; Clinical Assistant, Dept. Neurology, Columbia Univ. 1900-10; Visiting Neurologist City Hosp., New York; Pschiatry, Fordham Univ. 5 years; Instructor in Materia Medica, Col. Physicians and Surgery, Columbia Univ., 1906-10; Associate Prof. Nervous and Mental Diseases, Post-Graduate Hosp. and Med. School, N. Y., 1913-18; Consulting Neurologist, Manhattan State Hospital, N. Y.; managing ed. "Journal of Nervous and Mental Diseases," since 1900; ed. and contributor to various other medical periodicals, translator of works in nervous and mental diseases, from French, German and Italian; co-author (with Dr. Wm. A. White) "Modern Treatment of Nervous and Mental Diseases," and "Diseases of the Nervous System"; member Am. Neurological Ass., Am. Med. Psychological Ass., Am. Psycho-Pathological Soc. (President 1917-1918), Am. Psycho-Analytic Soc., N. Y. Neurological Soc. (President 1912-13), N. Y. Psychiatric Soc. and of various general med. socs.

Dr. William John Gies, B.Sc., H.Sc., ScD., Pennsylvania Col. B. Ph. Ph.D., Yale Univ. Assistant Physiological Chem. Sheffield Scientific Sch. Yale Univ. 1894-98; Instructor Physiology, Yale Univ., 1895-98; Instructor Physiological Chem. Columbia Univ., 1898-02; adjunct Prof. Physiological Chem. Columbia Univ. 1902-05; Prof. Biological Chem., N. Y. Col. of Pharmacy, 1904-. .; Prof. Biological Chem., Teachers' Coll., Columbia Univ., 1909-. .; member Am. Philosophical Soc., Am. Physiological Soc., Am. Biochemical Soc., Am. Pharmacological Soc., Am. Chem. Soc., Soc. for Experimental Biology and Medicine, Secy. Faculty Sch. of Med., Columbia Univ. 1905; Scientific Director, N. Y. Botanical Garden, 1910-. .; ed. technical journals.

Dr. James J. Walsh, A.B., A.M., Ph.D., Fordham Univ.; M.D., Univ. of Pa.; research work, Pasteur Institute, Paris, Algemeine

Krakenhaus at Vienna and with Virchow, Berlin; Assistant and Instructor General. Med., N. Y. Polyclinic Hosp., and Coll. for Graduates 1899-1900; Adjunct Pros. Gen. Med. same inst. 1901-05; ed. staff N. Y. Medical Journal 20 years and Journal Am. Med. Assn., 15 years, collaborating editor International Clinics, 15 years; Med. ed. N. Y. Herald, 7 years; Dean and Professor Functional Nervous Diseases and History Med., Fordham Univ. 1905-12; Prof. Physiological Psychology, Cathedral Col., N. Y., 15 years; Med. Dir. Sociological Dept., Fordham Univ., 2 years; Consulting Neurologist, several hosps. and Neurologist Cent. Neurological Hospital, N. Y.; Fellow N. Y. Academy of Med. and Am. Assn. for the Advancement of Science, member many med. socs.; author over 125 monographs and "Psychotherapy, including the Use of Mental Influence, etc."

Dr. Stephen Perham Jewitt, B.A., Clark Univ.; M.D., N. Y. Homeopathic Hosp., and Buffalo Univ. Med. Sch.; Asst. Attending Physician Buffalo Homeopathic Hosp., 3 years; Attending Psychiatrist Welcome Hall Hospital Disp., Buffalo, 3 years; Resident Physician, Rivercrest Sanitarium, Astoria, L. I., 1913-1916; member several med. socs., contributing Editor Tyson's Practice of Med., and author of chapters therein on Alcoholism and Drug Addiction.

Dr. Frank A. McGuire, M.D., N. Y. Univ.; Asst. Attending Physician DeMilt Dispensary, N. Y., 8 years visiting physician Northeastern Disp., N. Y., 5 years; Visiting Physician Blackwell's Island Workhouse and Penitentiary, Harlem District Prison, Fourth Dist. Prison and Fifth Dist. Prison, N. Y., 1899-1904; Visiting Physician, City Prison of N. Y. (The "Tombs"), 15 years, member med. socs.

Dr. Augustus John Mitchell, M.D., Med. Sch. Univ. City of N. Y., asst. Clinical Surg., St. Michael's Hospitl, Newark, N. J., 1897-99; Attending surgeon St. James' Hosp., Newark, N. J., 1899—; Visiting Obstetrician, Newark City Hosp. 5 years; Asst. Police Surg., Newark, N. J., 9 years; member many med. socs.; Councillor Essex County (N. J.) Med. Soc.; Trustee Newark City Home, 4 years.

Dr. Moses Keschner, M.D., Coll. Physicians and Surgeons, N.

Y.; LL.D., N. Y. Law Sch.; Visiting Physician for Dept. Correction, N. Y., 1906—; Attending Neurologist Beth Israel Hosp., N. Y., 1914; adjunct Attending Neurologist, Central Neurological Hosp., Blackwell's Island, N. Y., 1915—; Fellow Am. Med. Ass'n., member many med. socs., contributing Editor (on neurology) Tice's Practice of Medicine.

Dr. Arthur Perry Hasking, M.D., Coll. Physicians and Surg., N. Y.; Pathologist St. Francis Hosp., Jersey City, N. J., 1904-10, Asst. Attending Surg., same, 1906-12; Attending Neurologist and Psychiatrist same, 1912—Neurologist and Psychiatrist Jersey City Hosp., 1915—; Attending Neurologist and Psychiatrist Christ Hosp. and Greenville Hosp., Jersey City, 1917—; and North Hudson Hosp., Weehawken, N. J., 1919—; Asst. County Physician, Hudson County, N. J., 1910—; member many med. socs.

Dr. George W. King, M.D. Univ. of Mich.; Med. Dir. Hudson County (N. J.) Hosp. for Insane, 1881-1912; County Physician, Hudson County 1912—.

Dr. J. Henry Clark, M.D. Coll. Physicians and Surgs., N. Y.; House Surg., St. Barnabas Hosp., Newark, N. J., 9 years; Eye and Ear Surg., St. Michael's Hosp., Newark, 33 years; Chief Police Surg. Newark, 33 years.

Dr. Charles A. Rosewater, M.D. Col. Physicians and Surgs., N. Y.; Interne Mt. Sinai Hosp., N. Y., 1 year; Post-Graduate work, Europe 1 year; Med. staff Mt. Sinai Hosp. Disp., N. Y., St. James Hosp. and City Disp., Newark, N. J., various times, Vice-President, Commission on Dependency and Crime, New Jersey, author narcotic law Louisiana (at request State Board of Health); investigated and reported use of narcotics for Governor, West Va., State Boards of Health, Ga., and Va., Food and Drug Com., Tenn.; author of many monographs on inebriety and contributor to med. journals on same subject; Chief Narcotic Clinic, Newark, N. J.; Capt. Med. Corps, U. S. A. during European War, attached to Neuro-psychiatrical service.

Dr. Frank Pfister, M.D. Med. Dept. Wooster Univ., ear and nose and throat specialist.

Dr. C. L. Bardeen, Dean Med. Sch. Univ. of Wis.

Dr. William F. Lorenz, Director Wisconsin Psychiatric Inst.

(a State Department), Asst. Prof. Mental and Nervous Diseases, Univ. of Wis.; author of many articles in scientific journals; Special Expert U. S. Public Health Service, on mental manifestations of Pellagra.

Dr. Arthur G. Sullivan, M.D. Med. Department, Columbia Univ.

Among the affidavits presented by the experts were the following:

Dr. Hobart Amory Hare:

It is not generally known that there is produced in the human body every day certain quantities of alcohol, not infinitesimal, but in very definite amount, and for this reason alcohol can not be considered a foreign substance, and therefore can be considered as being practically at all times present in the human body. This alcohol is produced principally, if not entirely, by fermentation processes in the intestinal tube; it is absorbed and is contained in the fluids and tissues of the body in general. It appears therefore that the body is accustomed daily to the utilization or oxidation of a certain percentage of alcohol which is utilized or oxidized in exactly the same manner as alcohol which is produced outside the body and then swallowed in ordinary quantity. For these reasons alcohol can not be considered as a foreign substance to which the tissues are entirely unaccustomed, and the effects which it produces are governed entirely by the quantity ingested and by the ability of the body to deal with a substance with which it is qualified to deal. If taken in such quantities as to be beyond the power of the body to utilize it or oxidize it, it, like every other substance capable of being swallowed, is capable of producing evil effects. This is true, for example, of water and ordinary table salt. In other words, the question of the power or influence of a given substance introduced into the body is determined by the quantity and concentration of that substance. In general terms, the greater the quantity and the greater the concentration, the greater the effect, and conversely the smaller the quantity and the greater the dilution, the less the effect. Salt, if taken in strong solution, irritates the stomach and causes vomiting, or if not vomited causes such an outpouring of

liquid from the tissues of the body into the stomach and intestines as to cause diarrhea.

So, too, it is generally known that a considerable quantity of 50 per cent solution of alcohol when taken undiluted may, by its irritant action on the stomach, produce injury, or by its rapid absorption into the blood may produce a condition which is commonly called drunkenness. On the other hand, it is generally recognized that the same quantity of alcohol when diluted with water, so that the alcohol content by per cent is low, is absorbed so slowly as to be deprived of its power or influence in direct ratio with the degree of its dilution. This is due to the fact that the dilution results in a greater volume of fluid having to be absorbed with a consequent slow or delayed entrance of the alcohol into the blood, so that there is at no time a very large quantity in that fluid. During the time of this slow absorption the system is busily engaged in oxidizing or destroying the alcohol as it enters in comparatively small quantities, with the result that the total quantity of alcohol present in the blood at a given moment is comparatively small. In one instance the alcohol may be said to be toxic because it overwhelms the ability of the body to deal with it, just as water may be toxic when taken in such quantity that the body can not deal with it. On the other hand, if alcohol is taken so that the body can deal with and destroy it, minute by minute, there is never a time at which it can act as alcohol, and therefore cannot exercise any intoxicating properties.

It follows from the foregoing that if a man drinks a considerable quantity of alcohol of such concentration as to equal 50 per cent, it will enter his blood more rapidly than if it is in dilute form, and therefore more rapidly than he can deal with it, whereas if he drinks a liquid containing a comparatively small percentage of alcohol, or, in other words, alcohol in a highly diluted form, it may be delivered to those parts of the body which utilize or oxidize the alcohol so slowly that it will never be present in sufficient quantity to produce any of the definite effects caused by alcohol which has escaped oxidation. The rapidity with which an alcoholic fluid is swallowed, and the degree of its dilution, to a large extent determines its effects, or in other words, a man in one or two swallows

or one drink of a 50 per cent solution would take as much alcohol as would a man who ingested about one pint of beer. The dilution in the pint of beer results in so slow an absorption of the alcohol content present as to give the body an opportunity to deal with or oxidize it as it is absorbed.

As illustrative of the delaying effect of dilution upon the absorption of alcohol, attention may be called to the well-known fact that all the strong alcoholic beverages commonly used produce their effect much more mildly if food is taken with them than if they are taken without food.

These deductions are supported by the following practical observations:

1. I have in times past taken as much as 1 quart of beer in one hour without any manifestations of intoxication, the said beer containing a higher percentage of alcohol than 2.75 per cent, by weight, although I am not an habitual user of beer or other alcoholic beverages.

2. I have frequently observed many other persons to do likewise.

3. I have given whisky and brandy containing amounts of alcohol far in excess of the quantity of alcohol contained in 2.75 per cent beer, in a quantity that a person can ordinarily drink several times a day without noticing symptoms of intoxication.

4. A careful study of the report of the central control board of Great Britain (liquor traffic), published in 1918, which board was composed in part of men recognized the world over as authorities upon the influence of drugs or medicines upon the living body, confirms the opinions reached by me from personal experience and observation.

5. I have carefully considered the results of the experiments conducted by Dr. John Marshall, which are described in detail in the affidavit of John Marshall in this proceeding, and have considered the results reported by Dr. Marshall as corroborative of all of the other evidence bearing upon this issue. These experiments of Dr. Marshall's are of real, scientific value and were conducted in a manner and under conditions to give to the results exceptional value and weight.

In considering what liquors are to be regarded as intoxicating liquors, I have assumed the following legal definition:

"Intoxicating liquors are those liquors which are intended for use as, or capable of being used as, a beverage, and which contain alcohol in such proportion or per cent that when consumed in any quantity that may practically be drunk by an ordinary man, or in any quantity that the human stomach can ordinarily hold, will produce a condition commonly known as intoxication or drunkenness. Drunkenness or intoxication is a materially abnormal mental or physical condition, manifesting itself in the loss of the ordinary control of the mental faculties or bodily functions to a substantial extent."

From these personal experiences and observations, and considerations of the literature on the subject, I am of the opinion that beer containing not to exceed 2.75 per cent of alcohol, by weight, is not intoxicating.

Dr. John Marshall:

In considering the intoxicating effects of an alcoholic beverage that may be ingested by man, we must necessarily consider the effect of the alcohol which, by process of absorption, passes into the blood. It then becomes important to consider the proportion which said alcohol in the blood bears to the total amount of blood in the body. It is the alcohol in the blood which, by direct action on the brain, manifests itself in certain disturbances of mental faculties and bodily functions that at a certain point may be regarded as intoxication.

Accompanying the process of the absorption of the alcohol so ingested from a beverage containing alcohol, there is the constant process of oxidation; that is, destruction of the alcohol in the body, which causes a constant diminution of the total content of the alcohol in the blood. If the process of oxidation of the alcohol in the blood is more rapid than the process of absorption there never can be any question of intoxication, because there will never be at any one time sufficient alcohol in the blood to produce the effects known as intoxication. It is only when the process of oxidation does not keep pace with the process of absorption of the alcohol in the blood, and the process of absorption continues by progressive

degrees to exceed the diminution caused by the oxidation of the alcohol in the blood that intoxication can by any possibility result.

I have considered the published results of experiments that have been conducted by others on the intoxicating effects of alcohol. I likewise have observed to some extent the effects of the drinking of beer. These data have emphasized the fact that low percentages of alcohol in beverages materially reduce and in some instances make the same negligible as intoxicating agents, as alcoholic intoxication is generally understood and construed. In considering whether or not beer containing not to exceed 2.75 per cent by weight of alcohol produces the condition that is ordinarily recognized as intoxication or drunkenness, consideration must be given to the volume and dilution of such beverage ingested and the action of the same upon the progress of absorption in the stomach and bowels, resulting in the introduction of a given amount of alcohol into the blood. It has been shown that the presence of one hundred and thirty-four one-thousandths of 1 per cent to one hundred and fifty-three one-thousandths of 1 per cent of alcohol in the blood produces the condition generally recognized as intoxication or drunkenness. Based upon the above experiments, the quantity of beer containing 2.75 per cent by weight of alcohol that would be required to be ingested to furnish one hundred and fifty-three one-thousandths of 1 per cent of alcohol in the blood at the time when the maximum quantity of alcohol is present in the blood of a man weighing 69 kilograms would therefore be 3.185 cubic centimeters, or 3 quarts and 11.7 ounces of beer, a quantity manifestly beyond the capacity of the human stomach, and a quantity in excess of the amount that is practically drunk by an ordinary man in 30 minutes.

One of the experiments resulting in the deductions above referred to was made with wine containing 10.35 per cent by volume of alcohol, and obviously the effects observed in that case were more rapid than would be the case in the more diluted beer containing 2.75 per cent by weight of alcohol.

During the month of April, 1919, I conducted a series of experiments upon three male human subjects to determine what, if any, intoxicating effect might follow the ingestion of such subjects of quantities of beer with an alcoholic content of 2.75 per cent by

weight. I will refer to these experiments as Case I, Case II, and Case III. The facts concerning these experiments are as follows:

Case I.—The subject was a male medical student 22 years of age, with a previous history of diphtheria at 7 years of age, and scarlet fever at 9 years of age. His condition of health at the time of the experiment was excellent. There were no drunkards in his family. From the age of 3 years to 6 years he was given, during the winter months, upon going to bed, one-half glass of beer about five times a week, but during the summer months, which he spent upon a farm, he received no alcohol. From the age of 9 years to 16 years he drank no alcoholic beverages whatever; from the age of 16 years to 18 years he drank about two glasses of beer a week, and from the age of 18 years to 22 years he drank about five glasses of beer a week. During this latter period from 18 years to 22 years, on Thanksgiving Day and Christmas he drank a very moderate quantity of wine or whisky. He never took an active part in athletics, but during his senior year in high school (1913-14) he played football and baseball, but not regularly. His weight at the time of the experiment, taken when nude, was 65 kilos, or 144.3 pounds. The Wassermann blood reaction taken at that time was negative.

At 7.50 o'clock in the morning of the day of the experiment he ate breakfast, consisting of one dish of a cereal (puffed wheat) with cream, one small omelet and one wheat roll. He drank a glass of water on arising, and a glass of water and a cup of coffee at breakfast. At 9 o'clock of that morning he drank, in a period of five minutes, 1,200 cubic centimeters (1 quart 8½ ounces) of beer, containing 2.75 per cent, by weight, or 3.49, by volume, of absolute alcohol. He drank, therefore, a total amount of 41.88 cubic centimeters (1.4 fluid ounces) of absolute alcohol, an amount corresponding to six hundred and forty-four one-thousandths of a cubic centimeter per kilogram of body weight. The temperature of the beer when ingested was 7° C., or 44.6° F. He reposed on a couch during the period of the experiment. The temperature of the room was 15° C., or 59° F. At 11.45 o'clock in the morning he ate one cheese sandwich and one ham sandwich. Blood was taken from the veins of the arms of the subject at 9.30, 10.30, and 11.30

o'clock in the morning, and at 12.30, 2.30 and 4.30 o'clock in the afternoon, and the quantity of alcohol in the blood so taken was determined quantitatively by the method of Nicloux. The maximum concentration of absolute alcohol found in his blood by these tests was thirty-five one-thousands of 1 per cent by volume, one and a half and two and a half hours after ingestion of the beer. The total blood in his body, being considered as 4,717 cubic centimeters, the total amount of absolute alcohol present in his entire blood at the maximum period was 1.65 cubic centimeters, which is 3.94 per cent by volume of the total amount of absolute alcohol ingested.

A feeling of fullness of the stomach, due to distention, was experienced after drinking the 1,200 cubic centimeters of beer. This feeling of fullness disappeared 15 minutes after the completion of the drinking of the 1,200 cubic centimeters of beer. The subject experienced no nausea or dizziness, and his mental faculties were perfectly clear throughout the experiment. He showed no unsteadiness of gait when he walked about 30 feet to urinate.

Case II.—The subject was a male medical student, 23 years of age, with previous history of diphtheria at 16 years of age. His condition of health at the time of the experiment was excellent. There were no drunkards in his family. He drank no alcoholic liquors until he reached the age of 21 years, since which time he drank beer about seven times a year, and each time at a party. On these occasions he drank about eight glasses of beer, each containing about 8 fluid ounces. During the six weeks preceding the experiment he drank no beer, and at no time has he drunk whisky, or the other so-called spirituous liquors. Beginning at his fourteenth year of age he played basketball during a period of four years, and during that period took active exercise in the gymnasium. For the last 11 years he has been an expert swimmer. At college he played football during the period of four years—that is, from his eighteenth to his twenty-second year of age, and during two summer seasons he was an instructor in swimming at a gymnasium in Philadelphia. At the time of the experiment his weight was 68.3 kilos, or 150.58 pounds. The Wassermann reaction in his blood was negative.

At 8.30 o'clock in the morning of the day of the experiment he ate breakfast consisting of one plate of cereal (shredded wheat) with cream, one soft-boiled egg, two slices of toast, one banana, and one cup of coffee.

At 10 o'clock in the morning he drank, in a period of 15 minutes, 1,200 cubic centimeters (1 quart 8½ fluid ounces) of beer, containing 2.75 per cent by weight, or 3.49 per cent by volume of absolute alcohol. He drank, therefore, a total amount of 41.88 cubic centimeters (1.4 fluid ounces) of absolute alcohol, an amount corresponding to six hundred and thirteen one-thousandths cubic centimeters per kilogram of body weight. The temperature of the beer when ingested was 10° C. or 50° F. He reposed on a couch during the period of the experiment, in a room the temperature of which was 17° C. or 62.6° F. At 1 o'clock in the afternoon he ate three mutton sandwiches and one piece of chocolate cake. The blood was taken from the veins of his arms at 10.30 and 11.30 o'clock in the morning, and at 12.30, 1.30, 3.30, and 5.30 o'clock in the afternoon. The alcohol therein was determined quantitatively by the method of Nicloux. The maximum concentration of absolute alcohol in his blood was three hundred and twenty-five ten-thousandths of 1 per cent by volume, which was found in blood taken two and a half hours after the ingestion of the beer. The total blood in his body being considered as 4,956.5 cubic centimeters, the total amount of absolute alcohol circulating through his entire blood at the maximum period was 1,611 cubic centimeters, an amount which corresponds to 3.85 per cent by volume of the total amount of absolute alcohol ingested.

The subject had a feeling of fullness of the stomach, due to distention after drinking the 1,200 cubic centimeters of beer. The stomach was tense and hard. Five minutes after the completion of the drinking of the beer the feeling of fullness disappeared. The subject experienced no nausea and no dizziness, and his mental faculties were perfectly clear throughout the experiment. He showed no unsteadiness of gait when he walked 30 feet to urinate.

Summary of Cases I and II.—Beer containing 2.75 per cent of alcohol by weight, drunk at one time by each individual was 1,200 cubic centimeters (1 quart 8½ ounces), which contained a total

quantity of 41.88 cubic centimeters (about 1½ ounces) of absolute alcohol.

Time of drinking of beer		Time when blood was taken from individual		Percentage of alcohol in blood at time of blood taking	
Case I	Case II	Case I	Case II	Case I	Case II
9.00 a. m.....	10.00 a. m.....	9.30 a. m.....	10.30 a. m.....	0.015	0.0075
		10.30 a. m.....	11.30 a. m.....	.035	.0175
		11.30 a. m.....	12.30 p. m.....	.035	.0325
		12.30 p. m.....	1.30 p. m.....	.0325	.015
		2.30 p. m.....	3.30 p. m.....	.0125	.015
		4.30 p. m.....	5.30 p. m.....	.005	.005

NOTE.—In the case of drunkenness reported by Schweisheimer, the concentration of 0.133 per cent of absolute alcohol by volume was found in the blood one and one-quarter hours after ingestion of the wine, and the concentration of 0.153 per cent of absolute alcohol by volume was found in the blood one and a half hours after the ingestion of the wine.

Case III.—The subject was a male medical student, 23 years of age, with a previous history of German measles at 3 years of age. His condition of health at the time of the experiment was excellent. There were no drunkards in his family. He drank no alcoholic beverages until he reached the age of 17 years, since which time he has drunk from 8 to 10 glasses of beer in a month, and he averages one drink of whisky in a month. He did not drink beer or any other alcoholic beverage for a week before the beginning of this experiment. During his fifteenth and sixteenth years of age he played football at high school, and during his seventeenth and eighteenth years of age he played football and golf while at a preparatory school. At college, from his nineteenth year to the present time, he has engaged in wrestling and has played lacrosse. His weight at the time of the experiment, nude, was 65.8 kilos or 145.6 pounds. The Wassermann reaction in his blood was negative.

At 8 o'clock in the morning of the day of the experiment he ate breakfast, consisting of two crullers, one cup of coffee, and one-half glass of water. At 9 o'clock in the morning he drank, within

10 minutes, two glasses, each glass containing 295.7 cubic centimeters or 10 fluid ounces of beer, containing 2.75 per cent by weight, or 3.49 per cent by volume, of absolute alcohol, and thereafter at intervals of 35 minutes he drank one glass of beer, 10 fluid ounces, until the final drinking at 11.30 o'clock in the morning, aggregating six glasses of beer, or a total volume of 1,774.4 cubic centimeters (1 quart 28 ounces). The temperature of the beer when ingested was 7° C., or 44.6° F. As he drank a total volume of 1,774.4 cubic centimeters of beer, he consumed a total quantity of 61.927 cubic centimeters (about 2 ounces) of absolute alcohol, an amount corresponding to ninety-four one-hundreths of a cubic centimeter of absolute alcohol per kilogram of body weight. This amount was consumed within a space of two and one-half hours. Each glass of beer contained 10.35 cubic centimeters, or thirty-five one-hundreths of a fluid ounce of absolute alcohol.

During the experiment he walked from the chemical laboratory to the hospital and back, a distance of about 350 feet, and walked around the laboratory when he was not sitting on a chair. The temperature of the room was 18° C. or 64.4° F. The blood was taken from the veins of the arm at 9.25, 10.10, and 11.10 o'clock in the morning and at 12.10 and 1:10 o'clock in the afternoon, and the alcohol therein was determined quantitatively by the method of Nicloux.

The maximum concentration of alcohol found in his blood was fifteen one-thousandths of 1 per cent by volume. This was found in blood taken 25 minutes after he drank his third glass of 295.7 cubic centimeters (10 ounces) of beer, or 1 hour and 10 minutes after he drank his first glass of beer; that is, after he had ingested a total quantity of 887.2 cubic centimeters (30 fluid ounces) of beer containing a total amount of 30.96 cubic centimeters (about 1 ounce) of absolute alcohol, corresponding to forty-seven one-hundredths of a cubic centimeter per kilogram of body weight. The total amount of blood in his body being considered as 4,775.04 cubic centimeters, the total amount of alcohol circulating through his entire body at the maximum period was seven thousand one hundred and sixty-three ten-thousandths of a cubic centimeter, an amount corresponding to 2.32 per cent by volume of the total quantity of

alcohol ingested prior to the blood taking. The maximum concentration of absolute alcohol found in his blood, taken after he had ingested the entire quantity (1,774.4 cubic centimeters or 60 fluid ounces) of beer, was ten one-thousandths per cent by volume. This concentration was found in the blood 40 minutes after he had taken his sixth glass, or 3 hours and 10 minutes after he had taken his first glass of beer. At this time the total quantity of alcohol circulating through his entire blood was four thousand seven hundred and seventy-five ten-thousandths of a cubic centimeter, an amount corresponding to 0.772 per cent by volume of the total amount of absolute alcohol ingested during the preceding 3 hours and 10 minutes. The subject experienced no nausea and no dizziness, and his mental faculties were perfectly clear throughout the experiment. He showed no unsteadiness of gait in walking about.

Summary of Case 3.—The individual drank six portions of 10 ounces (295.7 cubic centimeters) each of beer containing 2.75 per cent by weight of alcohol, consuming a total quantity of 60 ounces (1,774.4 cubic centimeters). In each 10-ounce portion he drank 10.32 cubic centimeters of absolute alcohol, making the total amount of alcohol consumed 61.9 centimeters (2 ounces).

Time of drinking a 10-ounce portion of beer	Time when blood was taken from individual	Percentage of alcohol in blood at time of blood taking
9 a. m.	9.25 a. m.	0.005
9.10 a. m.	10.10 a. m.	0.015
9.45 a. m.	11.10 a. m.	0.010
10.20 a. m.	12.10 p. m.	0.010
10.55 a. m.	1.10 p. m.	0.0075
11.30 a. m.		

In view of the foregoing, I consider that beer with an alcoholic content of 2.75 per cent by weight is not an intoxicating beverage.

Dr. Smith Ely Jelliffe:

I first became interested in the action of alcohol while I was an instructor at Columbia University. I made special experimental studies for four or five years, including psychological investigations

as well with students and animals. I made a number of extensive experimental studies with animals and men on changes in the nervous tissues due to acute and chronic poisoning, alcoholic and otherwise, some of the results of which have been incorporated in some of the articles referred to. I made studies on multiple neuritis, Korsakow psychosis and the mentality of the alcoholic, morphine, heroin, alcohol, and other drug addicts. In addition I have seen thousands of acute and chronic alcoholic cases in the wards of the City Hospital, Bellevue, Bloomingdale Hospital, the Government Hospital for the Insane, Binghamton State Hospital, Hospital of La Salpétrière in Paris, and the Charité Hospital in Berlin, and to a great extent I have made psychological investigation in private practice of patients addicted to the various grades of alcoholism.

Practically all of the older data relative to the subject of alcoholism and the taking of beer or light wines pertain to solutions of from 4 to 12 per cent of alcohol, and prior to the institution of these proceedings there were practically no available data that can be said to be scientific or medically reliable on beers containing less than 4 per cent of alcohol by weight. The experiments, therefore, that were conducted by Dr. John Marshall, of Philadelphia, and which are set forth in detail in his affidavit in these proceedings, are of real scientific value and interest. I have carefully considered the report of Dr. Marshall upon his experiments with medical students who ingested in two instances 1,200 cubic centimeters at practically one time and in a third instance 1,774.4 cubic centimeters within a period of two hours and a half of beer with an alcoholic content of 2¾ per cent by weight. These experiments show that the alcohol in the beer was slowly absorbed into the blood and rapidly oxidized and that the maximum concentration of absolute alcohol in the blood at any one time was less than one-fourth of the amount which the experiments of Schweisheimer showed might produce mild intoxication. In the third experiment recorded by Dr. Marshall, where the subject ingested 1,774.4 cubic centimeters of the beer, the maximum concentration at any one time was about one-tenth of that which Schweisheimer found would produce intoxication; furthermore, in this last instance, the subject continued drinking the beer and the alcoholic content of the blood continued to

diminish, showing that oxidation more than kept pace with the absorption of the alcohol. The extensive physiological and neuromuscular experiments of Kraepelin were conducted with beers and alcoholic beverages of far greater alcoholic strength than 2¾ per cent by weight. In some of Kraepelin's cases the alcoholic percentage was not stated and the results of these experiments are thereby entirely vitiated.

On the evening of April 23, 1919, I was present at an experiment made upon six male human subjects to determine what, if any, intoxicating effect might follow the ingestion by such subjects of the greatest quantity of beer with an alcoholic content of 2.75 per cent by weight which the subjects could consume.

On this occasion the experiment was conducted under the supervision and direction of Charles A. Rosewater, M.D., of Newark, N. J., who, in an affidavit in this proceeding, has stated in detail the facts concerning the experiment. From my personal observation of the subjects, and from their conversation, I am of the opinion that each drank to satiety and for the purpose of the test drank more of the beer than he desired. The subjects were peculiarly temperamental, with a high degree of intelligence. I observed all the subjects closely during the evening and none manifested the slightest symptom of intoxication.

From my personal experience and investigation and from observations made upon others, as well as from my study of the experiences, investigations, and experiments recorded by others in the scientific literature of many countries, as well as the experiments recorded by Dr. John Marshall, above referred to, and of Dr. William J. Gies, I am of the opinion that beer which contains not to exceed 2.75 per cent of alcohol by weight, when consumed by an ordinary man or woman, is not intoxicating.

Dr. William John Gies:

I have had general experience in biological chemistry and have done original work in that field. I have been an investigator since 1895 of the effects of foods, poisons, and other substances, including alcohol, on the bodies of plants, animals, and human beings. I have conducted many analyses of the parts of plants, animals, and

human beings for the identification in them of normal and abnormal substances, including alcohol. I have published many papers on the results of my investigations since 1896 in leading American journals devoted to original research. I am at the present managing editor of two research journals, namely, the Biochemical Bulletin and the Journal of Dental Research; also editor of the Biological Department of Chemical Abstracts.

It is well known that the main effect of alcohol on the human body is the effect that is registered on the brain and nervous system in general, and that the action is narcotic in character. Scientific knowledge, on the mode of action of alcohol, is summed up in the following conclusions in the report of the advisory committee to the British Central Control Board (liquor traffic) as stated on pages 9 and 125 of the printed copy (1917):

"Apart from the results of its continued excessive use, the main effects of alcohol that have any real significance are due to its action on the nervous system. . . . The result of scientific research concerning the action of alcohol on the respiration, the circulation, the digestion, the muscular system, is to show that, as far as direct action is concerned, alcohol, when administered in moderate doses, in dilute form and at sufficient intervals, has no effect of any serious and practical account. A further conclusion of capital importance which emerges with equal clearness is that the action of alcohol on the nervous system is essentially sedative, and . . . is not truly stimulant."

After ingested alcohol passes from the stomach, through the walls of the stomach or intestines, or both, into the blood, it is distributed in the blood to all parts of the body, where a large proportion of the alcohol is consumed by the familiar process of oxidation. In this process of consumption, the affected alcohol entirely disappears. The effect that alcohol produces on the nervous system is the effect, in the main, that is induced by that portion of the circulated alcohol that is not yet thus oxidized or eliminated. The alcohol that is oxidized yields to the body, in this process, its full equivalent of heat energy. This fact explains why alcohol is, to this extent, regarded as a food. The amount of alcohol circulating in the blood of a human being that experiment

has shown is required to induce mild intoxication, is an amount that is 0.134 to 0.153 of 1 per cent of the blood in such subject.

Considering the fact well established that the amount of alcohol necessarily present in the blood to induce intoxication must be from about 0.134 to 0.153 of 1 per cent, the question arises whether the accumulation of this minimum proportion is affected by any of the qualities of such a beverage as beer. It is obvious, of course, that the smaller the proportion of alcohol in the beer the greater must be the volume of the beverage taken in order to present a quantity of alcohol that would yield in the blood this minimum proportion. But the greater the volume of beer taken into the stomach the sooner the sense of satiety is attained and the weaker becomes the inclination to take a quantity of this beverage sufficient to yield this minimum proportion of alcohol to the blood.

It is obvious, of course, that when an alcoholic beverage is taken into a stomach that already contains food, or when such a beverage is taken into a stomach with food, the quantity of the beverage that can be ingested as a maximum is thus automatically reduced and the proportion of alcohol in the mixture in the stomach is correspondingly less than that in the beverage itself, so that the larger the quantity of food to be digested with an alcoholic beverage, all other things being equal, the smaller the maximum proportion of alcohol to be registered in the blood.

On these matters the Advisory Committee of the (British) Central Board (Liquor Traffic) has reported (1917)* as follows (p. 90):

"As our practical conclusion, then, from the evidence at present available, we may say that any form of alcoholic liquor can cause drunkenness, if such a quantity of it is taken, at once or within a short time, as will lead to the presence of the drug in the blood above a certain proportion, which in the case of the average healthy adult may be put provisionally at from 0.15 to 0.2 per cent. From the point of view of the prevention of drunkenness, the superiority of the more dilute beverages, such as the lighter beers and natural wines, is therefore mainly due to the fact that the bulk of the fluid makes it difficult for the drinker to consume a very large dose of alcohol within a moderate period."

Dilution (low percentage) of alcohol in the beverage, and diminution in the volume of the beverage in the stomach (by admixture with food), are mechanical factors that keep down the proportion of alcohol in the blood of the individual involved, and may wholly prevent the alcohol in the beverage from rising to an inebriating proportion in the blood. Beer also tends to retard somewhat the passage of the contents of the stomach into the intestine, by diminishing the number and force of the ordinary muscular movements of the stomach, thus slowing up also the general absorption of the contained alcohol. The contained food matter in beer has likewise a retarding action, indirectly at least, on the passage of the mixture into the intestine from the stomach and on the passage of the alcohol into the blood.

Any influence, such as those mentioned above, that involves a lowered proportion of alcohol in the beverage taken, diminution in the volume of the beverage ingested, or delay in the transmission of the alcohol in the beverage from the stomach into the intestine, reduces the amount that represents the maximum accumulation (proportion) of alcohol in the blood, in a particular individual under given circumstances, because the total quantity of alcohol that passes into the blood enters it more slowly, is relatively less in amount, and the oxidative processes for the physiological disposition of the alcohol that enters the blood and thence the tissues are correspondingly more completely and promptly effective.

I have been asked for an opinion as to whether beer containing 2.75 per cent by weight is capable of causing intoxication. As intoxication or drunkenness is commonly understood and legally defined, I am of the opinion that beer with an alcohol content not to exceed 2.75 per cent, by weight, is not capable of causing intoxication, and should not be considered an intoxicating beverage.

My opinion is based on the following facts:

I have frequently seen men take as much as one quart of beer within one hour without any manifestations of intoxication, said beer containing a higher percentage of alcohol than 2.75 per cent by weight.

As to the evidence of laboratory investigation: This evidence

is too abundant to be quoted in its entirety, but the following facts are to the point:

In November, 1916, the Central Control Board of Great Britain (Liquor Traffic) appointed an advisory committee to consider, among other things, the physiological effect of alcohol. That committee was composed of eminent scientific men.

The committee prepared, "as a provisional basis for further research," a review of "the existing state of scientific knowledge regarding the action of alcohol on the human organism. The conclusions represent the unanimous judgment of the committee."

According to the findings of this committee of the Central Control Board, definite intoxication in man does not occur until the concentration of alcohol in the circulating blood of the body rises above 0.134 of 1 per cent and 0.15 of alcohol in the blood caused mild intoxication. The dose of alcohol required to yield a proportion of alcohol in the blood of 0.1 per cent is approximately 1 part of alcohol per thousand of body weight. If a man weighing 70 kilograms takes alcohol to the amount of 1 to 1,000 of his weight, he will take 1 gram per kilo or 70 grams.

If such a man takes two and a half liters of beer, having an alcoholic content of 2.75 per cent, by weight, he will take 68.75 grams of alcohol, and at its highest point of concentration he will have an amount of alcohol in his blood that bears the ratio of the total blood content of his body of about 1 to 1,000. The amount of blood in such a person's body is, according to Haldane, about 3,500 grams; so that he would have about 3.5 grams of alcohol in his blood at the highest point of concentration. As a matter of fact, our man, weighing 70 kilos, under the conditions specified, would have this proportion of alcohol (0.1 per cent) in his blood only for a very short period, and would have to take three and three-quarter liters of such 2.75 per cent beer practically at one time to get 0.15 of 1 per cent of alcohol into his blood. This would be approximately a gallon of such beer, a quantity far in excess of the capacity of the stomach.

Chittenden and Mendel state that if six to eight cubic centimeters of alcohol are swallowed in beer, it takes one-half hour for 80 to 90 per cent of the alcohol to be absorbed. Assuming that the

rate of absorption of the alcohol is constant, then if it takes one-half hour to absorb 6-8 c. c. in beer, it will take approximately four times as long or two hours to absorb the 34.3 c. c. in one liter of such 2.75 per cent beer.

In discussing the question of the quantity of absolute alcohol that can be completely oxidized in the body, so that there will be none remaining to exercise injurious influences upon the tissues, Hutchison, in his work entitled "Food and the Principles of Dietetics," states (p. 348) that "1 to 1½ fluid ounces" (that is, 29.6 to 44.4 c. c.) "is about the amount that can be completely oxidized in the body in one day, and in such a way that none of its paralyzing or narcotic effects are manifested, and none appears in the urine," and further observes that this is equivalent to at least 20 ounces of 5 per cent beer. This would mean that the body could completely oxidize or destroy the total alcoholic content of about one and one-tenth liters (of the beer with alcoholic content of 2.75 per cent, by weight).

As a matter of fact, it is more than 1.1 liters because 20 ounces imperial measure, which Hutchison uses, is one imperial pint; and one imperial pint is equivalent to 19.2 fluid ounces in wine measure, the wine pint being 16 fluid ounces.

To quote Hutchison again (p. 349):

"A factor which must influence any calculation as to the amount of alcohol which can safely be consumed daily is the form and mode in which the alcohol is taken. It will be generally conceded that the same quantity of alcohol is less likely to be injurious if taken in a dilute than in a concentrated form. It must be evident also that an amount of alcohol which would be harmful if swallowed at one time may be free from risk if spread evenly over the day. The danger to be avoided is flooding the circulation at one time with an amount which it is beyond the power of the cells to oxidize."

Dodge and Benedict in their report entitled "Psychological Effects of Alcohol," at page 266, state:

"It is a well-established fact that ethyl alcohol, when taken in small doses, the total amount per day not exceeding 75 grams, is completely oxidized in the body and thereby replaces nutrients as a source of energy."

Upon this finding the body could completely oxidize or destroy the total alcoholic content of about 2.7 liters of beer with an alcoholic content of 2.75 per cent by weight.

The above mentioned report (p. 88) puts mild intoxication at 3½ ounces of absolute alcohol or more than four pints of beer of average strength containing 4 per cent of alcohol for a man weighing 140 pounds.

All this does not allow, however, for slowness of absorption due to dilution.

To quote the British control board again (pp. 90-91):

"The superiority of the more dilute beverages, such as the lighter beers and natural wines, is therefore mainly due to the fact that the bulk of the fluid makes it difficult for the drinker to consume a very large dose of alcohol within a moderate period."

And again on page 131 of the report:

"We deal here solely with the physiological aspect of the alcohol question, and our consideration of this aspect leads us to recognize that the agreeable effects which the majority of people experience from the use of alcoholic beverages can be produced by doses of alcohol—moderate in quantity and taken in adequate dilution and at sufficient intervals—which will not, in normally constituted persons, be attended with appreciable risk to physical or mental health."

And again on page 133:

"The temperate consumption of alcoholic liquors in accordance with these rules of practice may be considered to be physiologically harmless in the case of the large majority of normal adults; and this conclusion, it may be added, is fully borne out by the massive experience of mankind in wine-drinking and beer-drinking countries."

As the capacity of the human stomach of an adult, even when moderately distended, ranges from three to five pints, it is manifest that an intoxicating quantity of 2.75 per cent beer could not be taken under ordinary conditions, especially with food accompanying it or already in the stomach.

On May 2, 1919, between the hours of 4.25 and 7.25 o'clock p. m., I conducted an experiment upon two men to determine what, if any, intoxicating effect would result by these men ingesting the

largest quantity of beer with an alcoholic content of at least two and three-quarter (2.75) per cent by weight, of which they were capable during the period of the experiment.

Each of the subjects had eaten luncheon between 1 and 1.30 o'clock p. m., on the day of the experiment.

Subject No. 1 is 48 years old, weighs 98.8 kilos, and is a physical trainer and author, dislikes beer, but drinks ale moderately. The last previous time he took an alcoholic beverage prior to the test was at 11 o'clock p. m. on May 1, 1919, when he took a bottle of Evans's ale. He is in good health and of muscular build, with a tendency to corpulency. Subject No. 2 is 27 years old, weighs 66.8 kilos, and is an electrician and drinks beer occasionally. The last previous time he took an alcoholic beverage prior to the test was on the evening of April 30, 1919, when he drank a glass of beer. He was in good health at the time of the test.

The experiment was started at 4.25 o'clock p. m., and by 5.27 o'clock p. m. each subject had drunk the contents of six full 12-ounce bottles of beer, each of which was properly identified and marked "J. R. 5-2," which, according to a report of the Lederle Laboratories, submitted to me at the time, was said to contain 2.23 per cent of alcohol by weight. To the contents of each of the bottles of beer taken by the subjects, as it was handed to the subjects, was added 2.5 cubic centimeters of alcohol (95 per cent by volume) in order to make the content of alcohol in the beer taken by the subjects at least 2.75 per cent by weight. During the period when the beer was taken by the subjects they ate a few crackers. Marked diuresis in each subject was manifested between 5.30 and 5.35 o'clock p. m., and again between 6.10 and 6.30 o'clock p. m. Except for the diuresis mentioned and a moderate facial flush in subject No. 1, there was no noticeable effect of any kind from the ingestion of the beer. Blood was taken from subject No. 1 at 6.25 o'clock p. m. and from subject No. 2 at 6.35 o'clock p. m., and both subjects remained under observation in general conversation until 7.25 o'clock p. m., and there were no signs of intoxication at any time in either subject. As a check upon the report of the Lederle Laboratories as to the alcoholic content of the beer, I took samples of the beer at about 5 o'clock p. m. and analyzed same by the Dox

and Lamb modification of Düpre method to ascertain the quantity of alcohol in the beer. I found the alcohol content of the beer to be upon such analysis 2.24 per cent by weight, which, with the alcohol that was added to each bottle as it was given to the subject, carried the total proportion in the beer when given to the subject to 2.77 per cent by weight. The blood taken from the subjects I analyzed according to the Dox and Lamb modification of Düpre method in order to ascertain the quantity of alcohol by weight in the blood. The average quantity of beer in the six bottles ingested by subject No. 1 was 363 cubic centimeters; in the six ingested by subject No. 2, the average quantity was 366 cubic centimeters, so that subject No. 1, weighing 98.8 kilos, drank a total volume of 2,178 cubic centimeters of beer, containing 60.33 grams of alcohol; and subject No. 2, weighing 66.8 kilos, drank a total volume of 2,196 cubic centimeters of beer, containing 60.82 grams of alcohol. The blood taken from subject No. 1 weighed 242 grams and contained 0.082 of 1 per cent of alcohol by weight. The blood taken from subject No. 2 weighed 256 grams and contained 0.096 of 1 per cent of alcohol by weight.

I am, therefore, of the opinion that beer of alcoholic content of 2.75 per cent by weight is not an intoxicating beverage.

Dr. James J. Walsh:

Alcoholism has been a subject of deep interest to me, and I feel that I know well the status of our information as to the action of alcohol upon the human body, both in its physical and psychical manifestations. I have been impressed with the theory which has been advanced by some authorities that alcohol is produced within our bodies, as referred to by H. C. Woods in his "Therapeutics," 1901, pages 284-290, as follows:

"As Lieben also found that this substance exists in the urine of dogs, horses, and lions, and as A. Rajewski obtained it from healthy rabbits, it must be acknowledged that our present knowledge strongly indicates that alcohol is formed and exists in the normal organism."

This, in my opinion, explains the well known fact that the human body tolerates alcohol well, and that while almost every

adult takes alcohol in some form or other, comparatively few persons are adversely affected by it, and then only when it is used excessively and in highly concentrated form. It seems to me that this is accounted for by the fact that the power to rapidly burn up or oxidize alcohol is possessed to a remarkable degree by the cells of the body. As an earnest advocate of temperance, I have watched with great interest how the drinking of whisky has given place to the drinking of beer, and I attribute the well-known fact that alcoholism is a disappearing disease largely to this cause.

On the evening of April 23, 1919, at the Hotel Brevoort, in New York City, I was present from about 10.45 p. m. until 12 o'clock midnight while an experiment was in progress conducted under the direction of Dr. Charles A. Rosewater, for the purpose of observing what effect, if any, the ingestion of a quantity of beer with an alcoholic content of 2.75 per cent by weight, by a number of given subjects, had upon their mental faculties and bodily functions. The details of the conduct of such experiment are set forth in full, as I am informed, and verily believe, in the affidavit of Dr. Charles A. Rosewater, submitted herewith in this proceeding. It appears therefrom that these subjects were men of high intellectual attainment and development and of temperamental character. I conversed with these subjects after they had ingested from 3 to 8 bottles of this beer, each bottle containing, as I am informed and believe, 12 ounces. They displayed clear and alert mental faculties and gave no evidence whatsoever of any impairment of either mental faculties or physical functions as a result of the ingestion of the said beer. There was not the least sign of any intoxication in any of the said subjects.

I have personal experience with the "war beer" now being sold, and which I am told contains 2.75 per cent of alcohol by weight, and I have noted its mildness, and though I rarely use alcoholic beverages personally, and am very susceptible to the action of alcohol, I have felt scarcely any effect from this beer other than that of a refreshing beverage. From my personal experience, and as a physician, I do not consider beer containing 2.75 per cent by weight of alcohol an intoxicating beverage.

Dr. Stephen Perham Jewett:

In my capacity of physician in the various institutions at which I have served I have examined over 25,000 cases of persons suffering from alcoholism. All persons admitted to Bellevue Hospital as cases of alcoholism pass through the psychopathic and alcoholic wards of which I am director.

During all of my experience at the various institutions and hospitals with which I have been connected, both as interne and as physician, I have never known of any case of a person admitted to said institution suffering from alcoholism where such condition had been produced because of the drinking of beer. From my personal experience and from observation and researches made by me, I am of the opinion that beer or any beverage containing 2.75 per cent of alcohol by weight is not intoxicating.

Dr. Frank A. McGuire:

In my opinion as a physician, which is based especially upon my long experience in dealing with cases of inebriation, I am of the opinion that the beer now made and which contains not to exceed 2.75 per cent of alcohol by weight is not intoxicating.

Dr. Augustus John Mitchell:

As assistant police surgeon of Newark, N. J., I have been called upon in the course of my duties, among other things, to make an examination of the physical and mental condition of Newark policemen charged with intoxication. This examination was necessarily made at the time the policeman was intoxicated or alleged to have been so. I was also obliged to make a physical and mental examination of all chauffeurs and other drivers of vehicles who had been arrested and charged with intoxication. I have also had to make a mental examination of people reported to the police as being insane or as acting in an abnormal manner. As such officer I have had the medical supervision of persons held under arrest in Newark.

On April 21, 1919, at the De Jianne Restaurant, Newark, N. J., I attended an experiment conducted by Dr. Charles A. Rosewater of Newark, N. J., for the purpose of studying the effects of beer containing 2.75 per cent by weight of alcohol, upon human subjects,

with especial reference to its intoxicating properties. I was introduced to 12 men who were undergoing the tests and I conversed with these men and observed their manner and appearance. At the conclusion of the tests I carefully examined each subject, questioning him as to his sensations, noting his articulation, his mental condition, and his coordination, and I failed to find the slightest indication of intoxication in any of the subjects.

I have read the affidavit of Dr. Charles A. Rosewater, submitted in this action, and have noted the personal history of the above-mentioned subjects and the record of the amount of beer consumed by each individual, and I learn therefrom that the quantity of beer consumed by the individual subject in about four hours ranged from about 75 ounces (2 quarts 11 ounces) to about 187 ounces (5 quarts 27 ounces).

In view of my experience with the above-mentioned subjects and from my study and experience as an active practitioner of medicine for 22 years, and especially from my work in the observation and treatment of a large number of cases of alleged intoxication which have passed through my hands as police surgeon, I am of the opinion that the beer which is at present brewed and which, I am informed and verily believe, contains not to exceed 2.75 per cent of alcohol by weight, is not intoxicating.

Dr. Moses Keschner:

In the city prison in Brooklyn I see about 2,000 patients a year suffering from some phase of alcoholism. It has been part of my duty to treat these cases, and as part of my diagnosis I have to ask and ascertain what the patient has been drinking. Since the advent of the beer which is now made and which contains, as I am informed and verily believe, not to exceed 2.75 per cent of alcohol by weight, I have not found a single case of intoxication from such beer. From my study, investigation, and professional experience I am of the opinion that this beer is not intoxicating.

Dr. Arthur Perry Haskins:

As assistant to the county physician of Hudson County, N. J., the duties I was called upon to perform and did perform included, among other things, (1) the examination and commitment of insane

persons, (2) examination for the advice of the court of all persons who were insane or alleged to be insane, and (3) medical treatment of all prisoners and witnesses in the county jail. The persons who are confined in the county jail are all persons awaiting trial or action by the grand jury and all persons sentenced by police magistrates for short terms of 90 days or less. In Hudson County a large proportion of cases of delirium tremens are sent to the county jail for treatment.

Since my graduation from medical school my work has been in hospital where alcoholism has been a continual factor, and my work in the main has been the care of these cases. The Jersey City Hospital is the only hospital in Jersey City which makes special provisions for the care of cases of alcoholism, and consequently nearly all cases of alcoholism in the city hospital requiring care have been treated in the alcoholic ward of this hospital, in which I had service as an interne, and of which, since my appointment to the attending staff, I have had full charge. Many thousands of cases of alcoholism have passed through my hands, and my work as assistant to the county physician has involved the examination and treatment of persons convicted of intoxication and other forms of disorderly conduct. As part of the diagnosis of patients I questioned them; and both from their statements and from my observation and experience of the beer which is being brewed and sold at the present time, which, I am informed and truly believe, contains 2.75 per cent alcohol by weight, I have studied the effects of such beer. The patients themselves refer to the modern beer as "crippled beer," because it has no "kick." From my study, investigation, and experience as a physician, and especially in the treatment of the cases having to do with intoxication or alcoholism in various forms, I am of the opinion that the beer which is at present brewed, and which I am informed and verily believe contains not to exceed 2.75 per cent of alcohol by weight, is not intoxicating.

Dr. George W. King:

During the long experience that I have had in the capacities mentioned above and in the treatment and care of persons suffering from alcoholic indulgence I have never known of a single case of

alcoholism resulting from the drinking of beer, and this is true when the alcoholic content of beer was upwards of 4 per cent by weight.

In the treatment of alcoholism I have always considered both the kind and quantity of alcoholic liquor that a given subject had been indulging in, and in the study of the history of such cases and from my experience, I have learned that material disturbance of mental functions or intoxication does not normally result from indulgence in beer drinking.

On April 23, 1919, at the Hotel Brevoort in New York City I witnessed an experiment conducted by Dr. Charles A. Rosewater upon six male subjects to determine the effects of drinking quantities of beer with an alcoholic content of 2.75 per cent. The men who submitted to that test were of high mental development and in average physical condition. They did not show the slightest degree of intoxication from drinking the beer, and in fact the beer consumed by them seemed to have no abnormal effect upon their mental faculties or bodily functions. They were all as sober at the conclusion of the test as at the beginning.

A beer containing an alcoholic content of not to exceed 2.75 per cent by weight is a beverage of much lower alcoholic content than a beer that has been dispensed heretofore, and such beer, in my opinion, is not intoxicating.

Dr. J. Henry Clark:

I have been in the active practice of medicine for about 38 years. My work as police surgeon has brought me into close contact with many cases of alcoholism and intoxication and I have seen upward of 5,000 cases of persons suffering from such condition.

From my said experience as a physician I cannot conceive of a man becoming intoxicated upon beer with an alcoholic content not exceeding 2.75 per cent. I am of the opinion that such beer is not intoxicating.

Dr. Charles A. Rosewater:

I have read the recently published book entitled, "Alcohol, Its Action on the Human Organism," containing the report of the advisory committee of the central control board (liquor traffic)

of Great Britain, said advisory committee consisting of the following authorities:

Lord D'Abernon, G. C. M. G., chairman of the central control board (liquor traffic).

Sir George Newman, K. C. B., M. D., (vice chairman), principal medical officer to the board of education, member of the central control board (liquor traffic).

Prof. A. R. Cushny, M. D., F. R. S., professor of pharmacology at University College, London.

H. H. Dale, M. D., F. R. S., head of the department of biochemistry and pharmacology under the medical research committee, National Health Insurance.

M. Greenwood, M. R. C. S., statistician to the Lister Institute of Preventive Medicine and reader in medical statistics in the University of London.

W. McDougall, M. B., F. R. S., reader in mental philosophy in the University of Oxford and fellow of Corpus Christi College, Oxford.

F. W. Mott, M. D., F. R. S., pathologist to the London county asylums, consulting physician to Charing Cross Hospital.

Prof. C. S. Sherrington, M. D., F. R. S., Waynflete professor of physiology in the University of Oxford and fellow of Magdalene College, Oxford.

W. C. Sullivan, M. D., medical superintendent of the Rampton State Asylum for Criminal Lunatics.

I have noted in said report of the above-mentioned committee certain conclusions having an important bearing on the question as to whether beer with an alcoholic content not exceeding 2.75 per cent by weight is intoxicating. I quote from same as follows:

Page 18: "The absorption of alcohol is therefore complete, and in comparison with that of foodstuffs needing preliminary digestion, such as meat, it is conspicuously rapid. The actual speed of absorption seems to vary with a number of conditions, such as the form in which the alcohol is taken, the extent to which it is diluted, and the time in relation to meals."

Page 20: "In from 15 to 24 hours after a dose of alcohol has been taken the whole of it has disappeared completely. The de-

struction of the alcohol, indeed, begins as soon as it reaches the blood. . . ."

Page 21: "There being no evidence of its change into some other substance which the body can retain, the supposition is natural that it is completely 'oxidized' or burnt, producing, as when burnt in air, carbon dioxide and water, which pass out in the breath and urine."

Page 61: "Excessive doses of alcohol are liable to cause vomiting."

Page 85: "In reference to alcohol, then, it will be sufficient if, without trying to be too precise, we take it that a drinker really begins to suffer from acute poisoning as soon as he shows such immediate effects of the drug as interfere with his normal capacity for taking care of himself."

Page 87: "Similarly in cases of drunkenness in man, the blood has been found to contain, in one observation, 0.153 per cent of alcohol, and in another instance, when the intoxication was pronounced, 0.227 per cent."

Page 88: ". . . The amount present in the blood soon reaches a maximum level bearing a pretty constant relation to the dose originally drunk. So that knowing the quantity of absolute alcohol taken and the body weight of the drinker, we can at once give an approximate estimate of the maximum proportion of the drug which will be found in the circulation; and conversely, we can say what amount of alcohol must be administered to give any particular percentage in the blood. Thus, taking the figures which we have quoted, the proportion of the 0.15 which was found in the blood in the less pronounced case of intoxication, would correspond to an original dose of 1.5 cubic centimeters of absolute alcohol for each kilogram of body weight, and this amount, expressed in English measure, would be roughly equivalent, in the case of a man weighing ten stone, to a total dose of 3½ ounces of absolute alcohol." (Note, 3½ ounces of absolute alcohol is the amount contained in about one gallon of 2.75 beer.)

Page 90: "As our practical conclusion, then, from the evidence at present available, we may say that any form of alcoholic liquor can cause drunkenness, if such a quantity of it is taken, at once

or within a short time, as will lead to the presence of the drug in the blood above a certain proportion, which in the case of the average healthy adult, may be put provisionally at from the 0.15 to 0.2 per cent. From the point of view of the prevention of drunkenness, the superiority of the more dilute beverages such as the lighter beers and natural wines, is therefore mainly due to the fact that the bulk of the fluid makes it difficult for the drinker to consume a very large dose of alcohol within a moderate period."

I have searched the literature upon the subject to learn whether or not the alcohol contained in certain beverages is rendered less intoxicating by the presence of other substances in such beverages, and I find that competent authorities state that the alcohol contained in certain beverages is rendered less intoxicating by the presence of other substances in such beverages. I quote from the "Dispensatory of the United States of America," by George B. Wood and Dr. Franklin Bache, copyright, 1907, nineteenth edition, revised and rewritten by the following authorities:

H. C. Wood, M. D., LL. D., professor on materia medica and therapeutics in the University of Pennsylvania; Joseph P. Rennington, Ph. M. F. G. S., professor of theory and practice of pharmacy in the Philadelphia College of Pharmacy; Samuel P. Satles, Ph. D., LL. D., professor of chemistry in the Philadelphia College of Pharmacy; Albert P. Lyons, M. D., member of committee of revision of the Pharmacopœia of the United States of America; Horatio C. Wood, Jr., M. D., demonstrator of pharmacy and dynamics in the University of Pennsylvania. According to these authorities (p. 1343):

"The intoxicating ingredient in all wines is the alcohol they contain and hence their relative strength depends upon the quantity of that substance entering into their composition. The alcohol, however, naturally in wine, is so blended with the other constituents as to be in a modified state, which renders it less intoxicating and injurious than the same quantity of alcohol separated by distillation and diluted with water."

That an action similar to that referred to, with reference to the alcohol in wine, also occurs in beer, is more than likely in view of the complex chemistry of beer. Beer, according to the said Dis-

pensatory (p. 1345) mentioned above, has the following composition:

"All malt liquors contain, besides water and alcohol, solid substances, which together constitute the so-called extract, *i.e.*, that which is left behind when the water and alcohol are evaporated. The most important of these are dextrine, grape sugar, glycerin, succinic, acetic, lactic, propionic and glucie acids, carbon dioxide, albumin and albuminous principles, bitter and resinous matters, and essential oil from the hop, alkaline and earthen salts."

That the physiological action of alcohol in moderate dose may be vastly different from the effect in large doses in indicated in the report of the experimental work done by Dodge and Benedict (herein quoted), who state on page 20 of said report the following:

"In addition to the main experimental precautions, we systematically varied the alcohol dose. This was done for the following reasons: In the first place, it is a fact that different doses of some drugs produce quite different physiological effects, amounting even to a change of sign. That this is probably true of alcohol seemed to be indicated in more than one experimental investigation."

I have read in "The Nineteenth Century and After," July, 1915, the opinion of Sir Lauder Brunton, Bart., M. D., F. R. S., in reference to alcoholic intoxication, from which article I quote the following:

"When alcohol is taken in a very dilute form it can only be absorbed slowly from the digestive canal, and all the time that absorption is going on excretion is likewise occurring, so that there is never enough alcohol present in the blood at one time to produce the full narcotic effects. It is almost impossible for a man to get dead drunk on small beer or thin wine, and, indeed, on these beverages he can hardly even reach the stages of excitement or commencing narcosis; or, as a man is said to have complained, 'he didn't get no forrarder with them.' For a man to become dead drunk he must take a considerable quantity of alcohol, and in a concentrated form."

I am familiar with the experiments conducted by many observers with reference to the rapidity with which alcohol is absorbed

after taking, and know that all authorities agree that alcohol is much more rapidly absorbed when the stomach is empty than when the stomach is filled with mixed foodstuffs. Thus Prof. Cushny, in his work, "Pharmacology and Therapeutics," says (p. 192):

"The alcohol of beer is comparatively slowly absorbed, owing to the colloid constituents."

I have made a calculation of the quantity of beer with an alcoholic content of 2.75 per cent by weight which an individual would have to drink in order to have 0.153 per cent of alcohol in his blood, and I find that it would require an excess of 1 gallon, which quantity would have to be within the body at one time. It would also be necessary for all the alcohol contained in such quantity of this beer to have been absorbed and be circulating within the blood in order to have 0.153 per cent of alcohol in the blood. That this is impossible is apparent from the fact that the adult stomach holds in the average less than 3 pints, and that a considerable portion of the capacity of the stomach would be taken up with the gaseous substances in the beer, especially the carbon dioxide, and, further, owing to the fact that the alcohol of beer is comparatively slowly absorbed because of its colloid constituents, as stated by Prof. Cushny, and that it is promptly oxidized after absorption.

I quote as my authority for the statement that the stomach holds usually less than three pints from "Human Anatomy," by Thomas Dwight, M. D., LL. D., Parkman professor of anatomy in Harvard University; J. Playfair McMurrick, Ph. D., professor of anatomy in the University of Michigan; Carl Hammann, M. D., professor of anatomy in Western Reserve University; George A. Piersol, M. D., Sc. D., professor of anatomy in the University of Pennsylvania; J. William White, M. D., Ph. D., LL. D.; John Rhea Barton, professor of surgery in the University of Pennsylvania; John C. Heisler, M. D., professor of anatomy in the Medico Chirurgical College; edited by George A. Piersol, volume 2, sixth edition, 1918, page 1619:

"Average adult capacity (of the stomach) is said to range from 600 to 2,000 cubic centimeters (1.25-4.25 pints), average of 1,200 cubic centimeters (2.50 pints)."

I have learned that alcohol in the stomach is rapidly diluted by

the entrance into the stomach of water from the blood, upon which point I quote from "Food and Dietetics," fourth edition, 1917, page 340, by Robert Hutchison, M. D. Edin, F. R. C. P., physician to the London Hospital:

"The passage of alcohol out of the stomach into the blood is counterbalanced by a flow of water from the blood into the stomach. The endosmotic equivalent, as it is called, of absolute alcohol for animal membrane is 4.13, and this means that for every gram of alcohol which passes in one direction 4.13 grams of water pass in the other. If, then, alcohol be administered to a patient with a dilated stomach, the result may be that the total amount of fluid in the organ is ultimately increased."

I have read the book published by Dr. William Edward Fitch, M. D., major, Medical Reserve Corps, United States Army, formerly lecturer on surgery at Fordham University School of Medicine, and 40 contributors, published by permission of the Surgeon General of the United States Army, 1918, entitled "Dietotherapy," and find the following:

"Genuine malt liquors can be produced of low alcoholic strength" (2 per cent alcohol); "these are practically nonintoxicating."

I have also read the opinion of Dr. W. Gilman Thompson, professor of clinical medicine in the Cornell University Medical College, New York City, who states on page 273 of his book entitled "Practical Dietetics":

"As a preventive of drunkenness and the evils of chronic alcoholism, the introduction of the milder malt liquors into this country to partially supersede the use of strong spirits has proved a decided advantage."

I have reviewed the writings of many authorities to ascertain what dose of alcohol may be considered to be a "moderate" dose, and to learn what has been noted as to the physiological and psychological effects of such doses, and I find that the effects of such doses are in the main very slight, and, in so far as the control of the mental faculties is concerned, I quote from some authorities, and give, for the purpose of comparison, an estimate of the amount of alcohol contained in one bottle of beer:

One 12-ounce bottle of beer with alcoholic content of 2.75 per cent by weight contains approximately 12½ c. c. of alcohol.

Quotations from "Psychological Effects of Alcohol, an Experimental Investigation of the Effects of Moderate Doses of Ethyl Alcohol on a Related Group of Neuro-Muscular Processes in Man," by Raymond Dodge and Francis G. Benedict. Published by the Carnegie Institute of Washington, 1915:

Pages 29, 30: "Neither in the experimental literature nor in the theoretical discussions is there any uniform standard of alcohol dosage. . . . The quantity of alcohol in a 'moderate dose' is determined neither by general experimental agreement nor by convention. Single experimental doses vary in the literature from 10 c. c. to 100 c. c. and over. Meyer and Gottlieb place the 'stimulating' dose for abstemious adults at 30 to 40 grams, adding that for those accustomed to its use the dose must be larger. As a standard dose we adopted what seemed to be a fair average of 30 c. c. (dose A). Two variations of the standard dose were made for methodological reasons. In the 12-hour experiments, 12 c. c. was given hourly for 8 consecutive hours, excepting the hour of lunch. . . . A dose of 45 c. c. (dose B) was given to the regular group of moderate drinkers on a sufficient number of experimental days."

Page 108: "Effect of Alcohol on Word Reaction. . . . No matter how the effect of alcohol is reckoned as the result of these measurements, it is minute to the point of disappearance after dose A, and small but consistent after dose B. . . ."

Page 115: "That the present doses of alcohol have produced no marked effect on the association reaction times is at once apparent; it is rather a question of whether a consistent effect is discernible."

Page 133: "As far as our measurements go, rote memory (primary retention) is neither better nor worse after small doses of alcohol."

Pages 245-247: "Taken altogether, our data leave no doubt that alcohol shows a real difference of incidence in its effects on different levels of the nervous system. . . . The lower centers are depressed most and the highest least. This is entirely contrary to our traditions. But, as Prof. Hunt remarked in an informal discussion

of these results, 'If alcohol had selectively narcotized the higher centers, it would have been used as an anæsthetic centuries ago.' It can not be an experimental accident that all the cerebral reaction processes, eye reaction, word reaction, memory, and the free association experiments are in a class by themselves with respect to the small percentile change effected by moderate doses of alcohol. . . . The higher centers alone show capacity for autogenic reenforcement. In spite of sleepiness, pain, or sensory distraction and even narcosis, one can reestablish the normal controls on occasion, and make a fair showing, especially when the results would be serious if one let oneself go."

Page 247: "With only one apparent exception . . . alcohol regularly tends to depress neuromuscular action. But so does sleep. . . ."

Quotations from "The Influence of Alcohol and Other Drugs on Fatigue." The Croonian Lectures delivered at the Royal College of Physicians in 1906 by W. H. R. Rivers, M. D., F. R. S. P., fellow of St. John's College, Cambridge, published, 1908:

Page 58: "The Alcohol was taken on four days. Fifteen grams being taken twice and 30 and 50 grams on the other two days. . . . (In one dose.) The doses of 30 and 50 grams produced very little effect."

Pages 60, 61, 62: "The next work on alcohol, in 1904, is that of Hellsten. . . . He took his alcohol in the form of brandy, and in his first experiments took doses which contained 25 and 50 grams of absolute alcohol, either 5 or 10 minutes before beginning to work, and found that the effect of the alcohol was so slight that the differences on different days might be due to chance variations."

Page 62: "The work of Hellsten is the most extensive which has hitherto been done on the action of alcohol, and at the same time it is the only work which can be said clearly to prove the injurious influence of alcohol on the capacity for muscular work. It must be remembered that he was using the very large doze of 80 grams in the experiments which gave any decisive result—much larger than that used in any other work, and so large that disturbances of digestion were produced, which made it necessary to discontinue the experiments. Nevertheless, in spite of this very

large dose, the diminution in the amount of work was not very great. . . ."

Page 87: "It is possible to say, however, that sometimes a dose of 40 cubic centimeters of pure alcohol may produce a decided increase in the amount of work executed. . . ."

Page 91: "Perhaps the most important result of Rüdin's work is to show how great may be the degree of insusceptibility to the action of alcohol in some persons. He used the large dose of 100 cubic centimeters of absolute alcohol, and yet in some cases the effect was very slight, in spite of the fact that the subjects of his tests were abstainers."

Page 95: "In the fourth ergographic experiment, multiplication by the same method was done on nine days, on three of which a dose of 40 cubic centimeters of alcohol was taken. . . . Any effect of alcohol which might be present has thus a better chance of showing itself, but it is very doubtful whether any such effect is present. . . . If the dose of 40 cubic centimeters had any effect at all, it was slightly injurious."

Page 100: "In the case of mental work, the available evidence points to a decrease in the amount of work under the influence of alcohol when there is an effect at all, but there are very great individual differences, even the large dose of 100 cubic centimeters failing to show any effect in some persons."

Pages 131, 132: "Even with the dose of 40 cubic centimeters, I noticed very little to differentiate the alcohol days from those on which only the control was taken. . . . In Mr. Webber's case (an abstainer). Very soon after taking the dose of 40 cubic centimeters of alcohol, it was often noticed that there was some salivation, sweating, and irritation of the skin. . . . Every care was taken by the subject, however, to keep the experiment running smoothly. . . ."

Quotations from "Physiological Aspects of the Liquor Problem." Investigations made by and under the direction of W. O. Atwater, John S. Billings, H. P. Bowditch, R. H. Chittenden, and W. H. Welch, subcommittee of the committee of fifty to investigate the liquor problem, 1903:

Volume 2, pages 125, 126: "Partridge has studies the effect of

small quantities of alcohol upon the rapidity of adding, reading, and writing. The experiments on these processes were made by Partridge upon himself and covered a period of 33 days. The amount of alcohol taken was 90 grams of 33 1/3 per cent, and it was consumed at 7.55 a. m. Work was begun at 8 a. m. and was continued until 10 a. m. . . . In his summary Partridge points out that the effects of about 3 ounces of 33 1/3 per cent alcohol, taken under the conditions described, made only a slight difference in the psychophysical tests."

I have studied the subject of the resistance of the body to drunkenness, and find that experimenters have noted that enormous doses of alcohol are required to induce drunkenness. That this is due to a great extent to the capacity for "autogenic reenforcement" possessed by the higher brain centers (as pointed out by Dodge and Benedict) is more than likely. Practical experience, demonstrated by the fact that drunkenness is comparatively rare, also supports this view.

I am of the opinion that the resistance of the body to drunkenness is also to a considerable extent due to the fact that alcohol stimulates metabolism by increasing the pulse rate. Upon this point I quote from the work of Dodge and Benedict as follows:

Page 210: "The large number of data, the consistency of the results, and their direct corespondence to the size of the dose satisfy, we believe, the most rigid criteria of experimental evidence for a causal relationship between the ingestion of small doses of alcohol and a relative acceleration of the pulse during the moderate mental activity of the association experiments."

Pages 253, 254: "There are grounds for believing that the pulse rate is the best index of the general metabolic demands that is available in psychological experiments. The experience of the Nutrition Laboratory in its studies of the relationship between pulse rate and metabolism is best expressed by the pulse rate is likewise accelerated, and there is an increase in the total heat production shows a striking uniformity in fluctuations. . . . In the course of experiments it has been observed that with very slight activity the pulse and metabolism are at a minimum. When the activity is increased the pulse rate is likewise accelerated, and there

is an increase in the total metabolism. . . . The results show a fairly close correlation in the same individual between the heart output expressed as the product of the pulse pressure and the heart rate on the one hand, and the absorption of oxygen and the elimination of carbon dioxide on the other."

I have conducted practical tests to determine whether or not an ordinary man can drink enough beer containing 2.75 per cent by weight of alcohol to render him intoxicated. The subjects were tested in two groups. The first group consisted of 13 men and comprised mechanics and brain workers between the ages of 23 and 66 years, representing various types of drinkers. They were furnished with highly seasoned food to stimulate thirst, and were encouraged to drink as much as they could. In conducting the test upon this group I was assisted by Henry Hilfers and James B. Reilly, both of Newark, N. J., and before the conclusion of the test each subject was examined by Dr. Augustus J. Mitchell, assistant police surgeon of Newark, N. J.

The second group of subjects comprised men engaged in mental work, between the ages of 33 and 45 years. They were all extremely moderate users of alcohol, and took beer only rarely. They were furnished a regular dinner without soup and were asked to drink as much beer as they could during about four hours. This group was observed by the following named gentlemen: Dr. Smith Ely Jelliffe, Dr. James J. Walsh, Dr. George W. King, Dr. Samuel Stern, Mr. George W. Whiteside, Mr. Lloyd Paul Stryder, Mr. Emory Buckner, Mr. George Elliot Flint, and Mr. John P. Ryan.

The tests upon group No. 1 were held at the De Jeanne Restaurant, 17 Central Avenue, Newark, N. J., on April 21, 1919, and covered a period of about four hours. The food consisted of herring, boiled ham with gravy, potato salad with mayonnaise and egg, bread and butter, tomatoes, cheese and crackers. In addition to this some of the men ate raw clams.

The beer used in testing group No. 1 was obtained from Christian Fiegenspan, a corporation of Newark, N. J. It was received in sealed cases and in sealed bottles. Each bottle contained about 12½ ounces of beer. Each case and each bottle was opened in my presence by Louis Boehme, of 11 West End Avenue, Newark, N. J.

On April 21, 1919, I ordered four bottles of the beer which was to be used in this test to be sent to Herbert B. Baldwin, a chemist, of 927 Broad Street, Newark, N. J., for the purpose of a check upon the alcoholic content. About one hour before the test was started, Mr. Baldwin reported to me that this analysis showed the beer to contain 2.46 per cent by weight of alcohol.

In order to raise the percentage of alcohol in the beer beyond 2.75 per cent by weight of alcohol, I added 20 minims of a 94 per cent solution of alcohol to each bottle of beer, as soon as it was opened.

On April 22, 1919, I took four bottles of beer from the lot used in the test, and also the bottle of alcohol from which I obtained the alcohol used, to the above-mentioned chemist, Herbert B. Baldwin, for a check analysis.

On April 25, 1919, I received from Mr. Baldwin a certificate showing that the beer tested by him on April 21 and 22 contained 2.46 per cent of alcohol by weight, and that the alcohol I submitted contained 93.8 per cent of alcohol by volume.

The tests upon group No. 2 were held at the Hotel Brevoort, Eighth Street and Fifth Avenue, New York City, on the evening of April 24, 1919.

The dinner served to the tested subjects consisted of raw oysters, chicken, potatoes, olives, salad, cheese, crackers, and coffee. The beer was received in sealed bottles, each containing about 12 ounces, a sample bottle of which had been analyzed by the Lederle Laboratories of New York City, who furnished a certificate that the alcoholic content was 2.34 per cent by weight, and who wrote that it would be necessary to add 27 minims of a 95 per cent solution to each bottle containing 11.2 ounces of beer in order to bring the alcoholic content to 2.75 per cent. The Lederle Laboratories also furnished, under seal, a bottle of 95 per cent ethyl alcohol. I personally broke the seal and opened each bottle of beer served and added to each bottle 30 minims of the 95 per cent solution of ethyl alcohol.

The following table covers group 1, showing the number of bottles of beer consumed by each subject:

Subject	Age	Weight	Occupation	Number of bottles consumed
No. 1	55	212	Typewriter supplies	6
No. 2	45	150	Vice president	6
No. 3	38	198	Bank clerk	6
No. 4	28	168	....do	9
No. 5	26	190	Electrician	13
No. 6	24	145	Broker's clerk	8
No. 7	40	165	Salesman	9
No. 8	66	225	Bookbinder	13
No. 9	57	200	Steel engraver	15
No. 10	31	170	Printer	13
No. 11	46	150	Cigar maker	9
No. 12	23	140	Mechanic	7
No. 13	52	170	Salesman	7

Group 1.—The personal characteristics and the result of the tests for each individual noted at the time are as follows:

No. 1.—Has been accustomed to taking alcoholic drinks since childhood. Has very rarely been intoxicated but remembers three or four instances when he was intoxicated by drinking cocktails and mixed drinks. Has had no alcoholic drinks during the last 10 days. Was only able to remain for about one hour, during which time he drank six bottles of beer. Before leaving, he addressed the company, outlining a project for establishing a social center for negroes in Newark, a movement with which he is identified. He was compelled to leave the dinner to attend a meeting in connection with this social movement.

No. 2.—Has been accustomed to taking alcohol in various forms since he was 21 years of age. Has never been drunk. His daily quantity varies from a few glasses of beer to four or five bottles in one day upon social occasions. He has had no alcoholic beverage in two days. He drank six bottles in about three hours and refused a further quantity, saying he was all filled up and that there was no pleasure in drinking any more, and that any additional quantity would be distasteful.

No. 3.—Has been drinking since childhood, mostly beer, occasionally other forms of alcoholic beverages, taking about six glasses of beer daily, usually with his meals. Remembers that he once was drunk on "ten-guinea-ale." He drank six bottles in about three hours and pronounced himself completely satisfied, saying that

he had drunk much more than he does normally, but was trying to see how much he could hold.

No. 4.—Has been a constant beer drinker since he was a young man, taking about five glasses of beer daily, though often taking nothing for several days. Has been drunk upon two occasions upon whisky. One month ago he was honorably discharged from the United States Army, in which he served seven months. During this time he drank practically nothing in the nature of alcoholic beverages. Since his discharge from the Army has taken a few glasses of beer daily, but has had nothing in the two days before the test. He drank nine bottles of beer in the space of four hours and said he did not wish any more.

No. 5.—Has been a daily drinker of nearly all forms of alcoholic beverages for several years, and has, on several occasions, been drunk on whisky. States that he has never been able to get drunk on beer. He drank 13 bottles of beer in about four hours, and did not wish any more.

No. 6.—This man's history is practically the same as that of No. 5. He drank 8 bottles of beer in about three hours and left to attend a wedding.

No. 7.—Has been drinking beer since early childhood, in hot weather, taking as much as 10 glasses a day. Has been drunk on whisky on several occasions. He drank 9 bottles of beer in about three hours, and stated he had no desire for more.

No. 8.—Has been a beer drinker since childhood, and has used alcohol rather freely for many years. Takes alcohol in some form or other every day, and has been drunk several times on whisky. He drank 13 bottles of beer in about four hours, and stated that while he could drink more, it would make him uncomfortable.

No. 9.—Has been a constant daily beer drinker for many years, averaging a pint or more every day. On social occasions has taken mixed drinks and has been intoxicated thereby. He drank 15 bottles of beer in about four hours.

No. 10.—Has been a moderate beer drinker since the age of 17 years, and for a number of years has averaged 8 glasses of beer a day. Has never been drunk. He drank 13 bottles of beer within about four hours.

No. 11.—Has been a drinker of all forms of alcoholic beverages since he was a young man, and has very rarely been intoxicated, then only when he drank whisky or mixed drinks. He averages 4 or 5 glasses of beer a day. He drank 9 bottles of beer in about four hours.

No. 12.—Has been drinking since the age of 18 and takes alcoholic beverages in various forms. He takes something of this kind every day, as a rule, though there have been times when he would go a week or two, or even a month, without any alcohol whatever. Has been intoxicated on several occasions on whisky. He drank 7 bottles of beer.

No. 13.—Has been a daily and constant drinker of alcohol, mostly beer, since he was a young man. He averages from 1 to 3 bottles of beer a day, and has never been drunk. He drank 7 bottles of beer in about three hours, and states that this was far in excess of what he had ever drunk before.

Group 2

Number	Age	Weight	Occupation	Number of bottles consumed
14	42	192	Artist	8
15	34	154	....do	8
16	45	176	Publicist	3
17	40	139	Journalist	6½
18	43	140	Architect	6½
19	33	145	Author	5

The personal characteristics and the result of the test for each individual in group 2 were as follows:

No. 14.—Since the age of 21 years has been extremely moderate drinker, averaging about one drink of whisky per day. He drank eight bottles of beer in about four hours, making every effort to drink all he could, and found it impossible to take more than he did.

No. 15.—Has been a moderate drinker for some years, taking mostly whisky and cocktails, and occasionally beer, in hot weather. He averages three drinks of whisky a day and has been intoxicated on several occasions. He drank eight bottles of beer in about four

hours, forcing himself to do so, and complaining of distention caused thereby.

No. 16.—Has been an extremely moderate drinker since the age of 19 years, only rarely taking beer. He takes one or two cocktails daily and has never been drunk. He drank three bottles of beer during the evening and found it difficult to do so, stating that beer was distasteful to him.

No. 17.—Has been an extremely moderate drinker since early youth, taking a cocktail at night before dinner and rarely more. He drank six bottles of beer during the evening.

No. 18.—Since early childhood has taken very moderate quantities of light wine and beer with his meals, and now takes about two cocktails or highballs a day. Had a glass of beer with his lunch the day of the test. He drank six bottles and a half of beer and refused more due to distention.

No. 19.—Drank beer between the ages of 18 and 21 years when at college, and since then has been extremely moderate, taking about one drink a day, consisting of either whisky or a cocktail. He drank five bottles of beer during the course of the evening and did not wish more.

SUMMARY OF TESTS

Summarizing the tests above described, the experiments lead to the following conclusions:

1. The drinking was forced. Every man drank more than he would have ordinarily drunk had he not been participating in a test.

2. The beverage tested (beer with an alcoholic content of 2.75 per cent by weight) does not compel repetition.

3. Satiation is complete and rapid. The subjects stated that they felt bloated and that additional drinking would merely add to their discomfort and was undesirable.

4. Several of the subjects admitted having on previous occasions been drunk on whisky or mixed drinks or heavy ale, showing thereby that they were not immune to drunkenness.

5. Those subjects acustomed to drinking large quantities of

beer manifested the same sensation of "bloatedness" as did those who were unaccustomed to drinking large quantities.

6. Not one of the tested subjects manifested the slightest sign of drunkenness, nor conducted himself in any manner which would even faintly indicate intoxication.

7. The quantity of beer consumed by the subjects during the tests ranged from about 36 ounces to about 187 ounces.

I have treated in the course of my professional work a large number of patients suffering from alcoholism in various forms, and I have repeatedly observed that men who get drunk on whisky would lead sober lives when they drank beer in its stead, and I have often advised the drinking of beer as a means of combating drunkenness. I am familiar with the substance known as "war beer," and I have made extensive inquiries as to its effects, especially with reference to intoxication, and I have failed to learn of a single instance in which the drinking of said substance was the cause of intoxication. As a result of my studies and observation and professional relations with persons addicted to the use of drinks and drugs, I am of the opinion that beer containing not to exceed 2.75 per cent by weight of alcohol is a nonintoxicating beverage.

In addition to the evidence of scientific experts as presented in the foregoing, there was also a mass of testimony, in the form of affidavits, from large employers of labor and union labor leaders, restaurant proprietors, etc., who had had exceptional opportunities to see the practical effects of the free drinking of 2.75 beer by many persons. All agree that this beer could not intoxicate. Consuls of foreign nations testified that beer of the same general strength was regarded in their countries as non-intoxicating and its use encouraged as an aid to temperance. An exceedingly interesting affidavit was furnished by Dr. Lewis B. Allyn, of Westfield, Mass., the noted chemist and food expert, who set forth the result of certainly analyses, mainly of so-called "soft" drinks, as follows:

MEMORANDA OF INCREASE IN ALCOHOL IN HOMEMADE ROOT BEER

Hire's: Cold water (50° F.), 10 quarts; sugar, 2 pounds; yeast, 1 cake; extract, one-half bottle.

	Alcohol	
	By volume	By weight
	Per cent	*Per cent*
After 36 hours	0.53	0.42
After 48 hours	.63	.50
After 72 hours	.63	.50
After 96 hours	.89	.70

Boardman's: Warm water (100° F.), 5 quarts; sugar, 1 pound; yeast, one-half cake; extract, one fourth bottle.

	Alcohol	
	By volume	By weight
	Per cent	*Per cent*
After 36 hours	0.86	0.68
After 48 hours	1.19	.95
After 72 hours	1.58	1.24
After 96 hours	2.05	1.63

Tonics—Mo-Cola, Ocala Bottling Works, Ocala, Fla. (Florida Woman's Christian Temperance Union), 1.27 per cent by volume, 1 per cent by weight.

Cider from Farmers

Sample No.	Purchased from	Alcohol	
		By volume	By weight
		Per cent	*Per cent*
1	Lefibaugh	6.10	5.12
2	Farnum's	6.18	5.19
3	Mundale	3.97	3.41
4	Haley (Southwick)	6.48	5.44
5	D. L. Allyn, Montgomery	6.41	5.37
6	E. C. Clark, Wyben	6.95	5.81
7	C. E. Hayden, Westfield	7.02	5.87
8	M. E. Camp, Montgomery	8.53	6.83
9	R. Russell, Southampton	5.79	4.51
10	H. H. Kelso, Montgomery	7.53	5.98
11	J. J. McElligott, Wyben	5.33	4.20
12	Lawrence Clark, Montgomery	7.44	5.91
13	Fred Clark, Southampton	6.41	5.07
14	Glen Herrick, Montgomery	5.72	4.51
15	C. A. Williams, Montgomery	5.87	4.64
Average		6.28	5.19

Alcohol content by volume and weight

PATENT MEDICINES FROM LABORATORY FILES

Sample	Alcohol		Sample	Alcohol	
	By volume	By weight		By volume	By weight
	Per cent	*Per cent*		*Per cent*	*Per cent*
Wingolf Brand Stomach Bitters	26.80	21.94	Vinol (second sample)	10.82	8.59
Wine of Pomelo or Grapefruit with iron and wine	16.10	13.03	Peptona	18.98	15.30
Waterbury's Compound	11.25	9.07	Manola	15.73	12.61
Walker's Tonic	18.97	15.42	Wincarnis (second sample)	17.55	14.23
Thompson's Laxative Bitters	14.50	11.72	Kodol	10.03	7.94
Tanlac	16.40	13.29	Peruna (second sample)	11.88	9.45
Swift's Specific	16.87	13.69	Caripeptic	14.43	11.57
Sella Vitae	15.95	12.91	Dr. Miles Restorative Tonic	8.34	6.57
Shore's Mountain Oil Liniment	39.70	33.08	Warner's Safe Remedy	11.98	9.53
Sante	25.70	21.02	Cooper's New Discovery (third sample)	19.45	15.80
Ru-Mex-Ol	22.80	18.59	Dr. Kennedy's Favorite Remedy	11.09	8.80
Purogen	24.50	20.01	Rexall's Peptonized Iron Tonic	14.60	11.80
Porto-Iron Stomach Tonic	19.40	15.76	Baldwin's Compound Extract of Sarsaparilla	12.92	10.30
Peter's Kuriko	12.80	10.33	Trinner's American Elixir of Bitter Wine	17.66	14.21
Peruvian Tonic	24.65	20.14	Riker's Beef, Iron & Wine	19.54	15.76
Parmint	12.80	10.33	Dr. Greene's Nervura	16.78	13.48
Matt J. Johnson's No. 6088	14	11.31	A. D. S. Cod Liver Oil	9.33	7.37
Leithhead Stomach Bitters	41.50	34.68	Rexall's Americanitis Elixir	12.07	9.61
Lepso	5	4	Rexall's Mucutone	22.22	17.99
Laxatone	9.44	7.60	Rexall's Kidney Remedy	13.95	11.27
Lash's Kidney and Liver Bitters	21.16	17.22	Hymosa	18.13	14.63
Kola Cardinette	13.70	11.06	Munyon's Paw Paw	20.39	16.47
Koenig's Nerve Tonic	3.05	2.43	Dr. Grady's Pure Malt Rye	46.00	38.75
Kickapoo Sagwa	15.60	12.62	Chionia	20.35	16.58
Hostetter's Stomach Bitters	24.52	20.02	Dr. Miles' Heart Treatment	8.18	6.43
Severa	24.18	19.76	Sanmetto	18.55	15.06
A. D. S. Iron Tonic Bitters	18.69	15.05	Schenck's Tonic	28.25	23.17
A. D. S. Viburnum & Celery Compound	17.22	13.85	Rexall's Sarsaparilla Tonic	22.58	18.30
A. D. S. Pelvitone	19.17	15.45	Old Monk's Bitters	9.48	7.57
Wine of Phosphoglycerine of Lime	18.69	15.05	Lundin's Sarsaparilla	21.49	17.45
A. D. S. Kidney Remedy	14.04	11.22	Dr. Kilmer's Heart Medicine	10.35	8.33
			French Blood Wine	8.33	6.63

PATENT MEDICINES

Hoff's Vitalizer	34.30	28.35	Baker's Plain Relief	18.55	15.06
Hubbard's Rheumatism Syrup	5.10	4.08	A. D. S. Iron Bitters	17.45	14.15
Hale's Honey or Horehound and Tar	13.50	10.90	Quaker Herb Extract	17.05	13.82
Green's Nervura	16.85	13.66	Mr. Zadock Porter's Medicated Stomach Bitters	30.10	24.74
Gilbert's Gravel Root Compound	14.30	11.56	Peruna	23.65	19.30
Gerstle's Female Panacea	15.90	12.87	Paine's Celery Compound	18.20	14.77
Foster's Celebrated Bitters	30.20	10.65	Old Kentucky Bitters	30.85	25.38
Elmore's Rheumatism Goutaline	15.00	12.13	Nyal's Iron Tonic Bitters	17.35	14.07
Elixir of Bitter Wine	15.45	12.50	McLean's Tar and Wine Lung Balsam	12.65	10.20
Eckman's Alternative	14.55	11.76	Goode's Pepto-Mangan	16.00	12.95
DeWitt's Stomach Bitters	33.70	27.83	Hood's Sarsaparilla	15.45	12.50
Cooper's New Discovery	15.10	12.21	Kilmer's Swamp Root	18.75	15.22
Cooper's New Discovery (second sample)	32.20	26.54	Lydia Pinkham's Vegetable Compound	16.75	13.57
Columbia Stomach Bitters	19.85	16.14	Tanlac	12.75	10.28
Congress Bitters	28.45	23.39	Varnesis	13.05	10.53
Collin's Ague Remedy	26.35	21.66	Vinol	16.15	13.08
Cardinal Stomach Bitters	32.25	26.59	Wyeth's Beef, Iron and Wine	22.20	18.09
Cardial Laxative	18.44	14.94	Warner's Safe Cure	13.85	11.19
Burdock Blood Bitters	18.90	15.38	Wincarnis	16.15	13.08
Bucklen's Electric Bitters	19.45	15.80	Nuxcara	8.10	6.50
Bowe's Turf Club Bitters	18.20	14.77	Wine of Peruvian Bark	21.40	17.43
Berg's Health Tonic	24.25	19.80	Mark Tonic Bitters	18.50	15.02
Berg's Hawkeye Bitters	27.50	22.54	Triner's Angelica Bitter Tonic	17.90	14.52
Bamboo Brier Blood Builder	31.10	25.60	Tona Vita	22.35	16.58
			Dr. Simpson's Swamp Root	13.05	10.53

EXTRACTS

Sample	Alcohol		Sample	Alcohol	
	By volume	By weight		By volume	By weight
	Per cent	*Per cent*		*Per cent*	*Per cent*
Sunbeam vanilla	43.56	36.56	Frank E. Harris Vanilla	36.64	30.39
Sunbeam Lemon	87.85	82.92	Frank E. Harris Lemon	87.44	82.50
Baker's Vanilla	34.54	28.56	Larkin Co.'s Vanilla	52.68	45.00
Johnson's Vanilla	43.32	36.33	Foss Lemon	82.82	76.50
Sauer's Vanilla	39.61	33.00	Foss Orange	85.09	79.60
Colton's Vanilla	37.14	30.83	Seeley's Vanilla	34.97	28.93
Colton's Orange	86.61	81.36	Richelieu Vanilla	40.08	33.40
Colton's Lemon	87.55	82.54	Economy Food Products Vanilla	42.23	35.25
Colton's Almond	40.47	33.76	Bee Brand Lemon	80.24	75.10
Miner's Vanilla	45.71	38.50	Bee Brand Vanilla	43.32	36.33
Miner's No. 2 Vanilla	47.08	39.75	Mexo-Cruz Vanilla	36.95	30.67
Miner's Extra Highgrade	41.00	34.24	Benefit Brand Peppermint	67.97	60.28
Golden Rule Flavorings:			Benefit Brand Almond	84.74	78.98
Strawberry	13.43	10.85	Benefit Brand Wintergreen	58.54	50.62
Raspberry	12.49	10.08	Williams & Carlton Lemon	81.58	75.15
Blackberry	10.82	8.71	Williams & Carlton Vanilla	42.62	35.70
Loganberry	13.81	11.15	Williams & Carlton Jamaica Ginger	93.09	89.70
Dr. Price's Lemon	84.27	78.52	Westfield Brand Vanilla	31.32	25.79
Dr. Price's Orange	88.16	83.31	Van Duzer's Peppermint	44.43	37.33
Dr. Price's Vanilla	46.44	39.14	Union Pacific Tea Co. Peppermint	48.43	41.00
Batavia Lemon	86.28	80.96	Standard Jamaica Ginger	47.08	39.75
Batavia Vanilla	43.93	34.57			
Slade's Lemon	89.39	84.88			
Slade's Vanilla	36.26	30.06			

APPENDIX

TABLE OF STATISTICS

INTERNAL REVENUE

A.—*COMPARATIVE STATEMENT Showing the RECEIPTS from FERMENTED LIQUORS during the Fiscal Years, ended June 30, 1918 and 1919.*

Objects of taxation	Receipts during fiscal years ended June 30		Increase	Decrease
	1918	1919		
Ale, beer, lager beer, porter, and other similar fermented liquors	$124,294,153.65	$64,374,610.47*a* 51,809,733.71*b*	.....	$8,089,809.47
Increased value of stamps in hands of brewers, other assessments, etc.	.....	1,319,556.89	1,319,556.89	.....
Brewers' special tax, *less* than 500 barrels per annum	1,433,427.51	3,696.56 49,025.01 92,579.43	.....	1,380,432.94
Retail dealers in malt liquors (spec. tax)				
Wholesale dealers in malt liquors (special tax)	558,276.49	190,132.14	.....	265,564.92
Total	$126,285,857.65	$34,520,978.44		
		Net decrease,		$8,426,255.44

a At $3 per barrel.

b At $6 per barrel.

B.—*Production of Fermented Liquors, Years Ended June* 30, 1914-1919.

	Barrels		Barrels
1914	66,189,473	1917	60,817,379
1915	59,808,210	1918	50,266,216
1916	58,633,624	1919	27,712,648

C.—*Materials Used by Brewers in the Production of Fermented Liquors, Year Ended June* 30, 1919.

Materials	Pounds	Materials	Pounds
Malt	854,329,231	Grits	25,780,394
Rice	17,356,242	Malt dextrine	1,077,999
Corn or cerealine	112,969,071	Other materials	3,725,124
Sugar or maltose	19,712,245		
Sirup or glucose	34,790,600	Total	1,083,665,556
Hops	13,924,650		

RETURNS OF FERMENTED LIQUORS BY FISCAL YEARS

D.—*STATEMENT showing the Internal Revenue Receipts from Fermented Liquors at Sixty Cents, One Dollar and Sixty Cents, Two Dollars, and $1.50 since Oct. 22, 1914, per Barrel of Thirty-One Gallons, the Tax-Paid Quantities, the Aggregate Collections, Amounts Refunded, and the Aggregate Production, from September 1, 1862, to June 30, 1918.*

Fiscal Years Ended June 30	Rates of Tax	Collections at Each Rate	Quantities in Barrels	Aggregate of Collections	Refunded	Aggregate Production in Barrels
1863....	$1.00	$885,271.88	885,272	$1,628,933.82	.....	2,006,625
	.60	672,811.53	1,121,353			
1864....	.60	1,376,491.12	2,294,153	2,290,009.14	.....	3,141,381
	1.00	847,228.61	847,229			
1865.....	1.00	3,657,181.06	3,657,181	3,734,928.06	.....	3,657,181
1866.....	1.00	5,115,140.49	5,115,140	5,220,552.72	.....	5,115,140
1867.....	1.00	5,819,345.49	6,207,402	6,057,500.63	.....	6,207,402
1868.....	1.00	5,685,663.70	6,146,663	5,955,868.92	.....	6,146,663
1869.....	1.00	5,866,400.98	6,342,055	6,099,879.54	24,090.61	6,342,055
1870.....	1.00	6,081,520.54	6,574,617	6,319,126.90	800.00	6,574,617
1871.....	1.00	7,159,740.20	7,740,260	7,389,501.82	4,288.80	7,740,260
1872.....	1.00	8,009,969.72	8,659,427	8,258,498.46	1,365.82	8,659,427
1873.....	1.00	8,910,823.83	9,633,323	9,324,937.84	1,747.11	9,633,323
1874.....	1.00	8,880,829.68	9,600,897	9,304,679.72	1,122.42	9,600,879
1875.....	1.00	8,743,744.62	9,452,697	9,144,004.41	849.12	9,452,697
1876.....	1.00	9,159,675.95	9,902,352	9,571,280.66	8,860.54	9,902,352
1877.....	1.00	9,074,305.93	9,810,060	9,480,789.17	21,107.84	9,810,060
1878.....	1.00	9,473,360.70	10,241,471	9,937,051.78	3,098.69	10,241,471
1879.....	1.00	10,270,352.83	11,103,084	10,729,320.08	1,291.55	11,103,084
1880.....	1.00	12,346,077.26	13,347,111	12,829,802.84	30.75	13,347,111
1881.....	1.00	13,237,700.63	14,311,028	13,700,241.21	.....	14,311,028
1882.....	1.00	15,680,678.54	16,952,085	16,153,920.42	.....	16,952,085
1883.....	1.00	16,426,050.11	17,757,892	16,900,615.81	243,033.20	17,757,892
1884.....	1.00	17,573,722.88	18,998,619	18,084,954.11	.....	18,998,619
1885.....	1.00	17,747,006.11	19,185,953	18,230,782.03	7,382.78	19,185,953
1886.....	1.00	19,157,612.87	20,710,933	19,667,731.29	133.33	20,710,933
1887.....	1.00	21,387,411.79	23,121,526	21,922,187.49	3,974.59	23,121,526
1888.....	1.00	22,829,202.90	24,680,219	23,324,218.48	.....	24,680,219
1889.....	1.00	23,235,863.94	25,119,853	23,723,835.26	.....	25,119,853
1890.....	1.00	25,494,798.50	27,561,944	26,008,534.74	.....	27,561,944
1891.....	1.00	28,192,327.69	30,478,192	28,565,129.92	31.67	*30,487,209
1892.....	1.00	29,431,498.06	31,817,836	30,037,452.77	20.00	31,856,626
1893.....	1.00	31,962,743.15	34,554,317	32,548,983.07	21,559.23	34,591,179
1894.....	1.00	30,834,674.01	33,334,783	31,414,788.04	24,577.62	33,362,373
1895.....	1.00	31,044,304.84	33,561,411	31,640,617.54	188.20	33,589,784
1896.....	1.00	33,139,141.10	35,826,098	33,784,235.26	4,993.90	33,859,250
1897.....	1.00	31,841,362.40	34,423,094	32,472,162.07	.....	34,462,822
1898....	1.00	34,480,524.23	35,112,426	39,515,421.14	.....	37,529,339
	2.00	4,404,627.40	2,380,880			
1899....	1.00	2,070.31	2,070	68,644,558.45	1,106.90	36,697,634
	2.00	67,671,231.00	36,579,044			
1900.....	2.00	72,762,070.56	39,330,849	73,550,754.49	117,559.91	39,471,593
1901.....	2.00	74,956,593.87	40,517,078	75,669,907.65	83,539.58	40,614,258
1902.....	1.60	71,166,711.65	44,478,832	71,988,902.39	9,177.69	44,550,127
1903.....	†1.00	†46,652,577.14	46,650,730	47,547,856.08	20,538.81	46,720,179
1904.....	1.00	48,208,132.56	48,208,133	49,083,458.77	44,396.35	48,265,168
1905.....	1.00	49,459,539.93	49,459,540	50,360,553.18	8,934.26	49,522,029
1906.....	1.00	54,651,636.63	54,651,637	55,641,858.56	20,261.45	54,724,553
1907.....	1.00	58,546,110.69	58,546,111	59,567,818.18	7,488.11	58,622,002
1908.....	1.00	58,747,680.14	58,747,680	59,807,616.81	7,002.28	58,814,033
1909.....	1.00	56,303,496.68	56,303,497	57,456,411.42	9,937.87	56,364,360
1910.....	1.00	59,485,116.82	59,485,117	60,572,288.54	7,649.76	59,544,775
1911.....	1.00	63,216,851.24	63,216,851	64,367,777.65	6,862.34	63,283,123
1912.....	1.00	62,108,633.39	62,108,633	63,268,770.51	6,471.95	62,176,694
1913.....	1.00	65,245,544.40	65,245,544	66,266,989.60	8,779.89	65,324,876
1914.....	1.00	66,105,444.65	66,105,445	67,081,512.45	8,181.07	66,189,473
1915.....	1.00 & 1.50	78,460,380.97	59,746,701	79,328,946.72	45,446.42	59,808,210
1916.....	1.50	87,875,672.22	58,564,508	88,771,103.99	18,611.80	58,633,624
1917.....	1.50	91,094,677.70	60,729,509	91,897,193.81	17,750.81	60,817,379
1918.....	1.50 & 3.00	26,259,632.45	50,174,794	‡126,285,857.65	.....	50,266,216
		98,005,121.20	.....	.....	.....	.....
1919.....	3.00 & **6.00	64,374,610.00	27,712,648	117,503,895.60	.....	27,712,648
		53,129,285.60				
Total...	.....	$2,050,626,009.07	1,725,141,086	$2,085,645,509.66	$824,245.02	1,726,952,334

NOTE.—Prior to September 1, 1866, the Tax on fermented liquors was paid in currency, and the full amount of tax was returned by collectors. From and after that date the tax was paid by stamps, on which a deduction of 7½ per cent. was allowed to brewers using them.

The Act of July 24, 1897, repealed the 7½ per cent. discount. The Act of June 13, 1898, restored the 7½ per cent. discount.

Under the Act of March 2, 1901, and April 12, 1902, no provision is made for any discount.

* The difference in quantities beginning with 1891 is to be accounted for as exported.

† Includes $4,924.85, at $1.60 per barrel.

Of the $824,245.02 refunded, $492,179.95 was refunded from fermented liquors to brewers and $332,065.07 to others than brewers.

The Act of October 22, 1914, increased the Tax to $1.50; that of October 3, 1917, to $3.00 per barrel.

‡ Includes $1,462,827.51 "Floor Taxes" on fermented liquors at $1.50 per barrel.

RETURNS OF FERMENTED LIQUORS UNDER EACH ACT OF LEGISLATION

E.—*STATEMENT showing the amount of Internal Revenue derived from Fermented Liquors at One Dollar and Two Dollars per Barrel, and at One Dollar and Sixty Cents, $1.50 since Oct. 22, 1914, and $3.00 since Oct. 3, 1917, per Barrel, under the enactments imposing those rates, the quantities on which the Tax was paid, the date when each rate was imposed and when it ended, and the length of time each rate was in force, from July 1, 1862, to June 30, 1918.*

Articles	Rates of Tax per Barrel	Dates of Acts		Length of time rates were in force	Collections at Each Rate	Barrels Quantities in
		Imposing Tax	Limiting Tax			
Ale, beer, lager beer, porter and other similar fermented liquors	$1.00	July 1, 1862	Mar. 3, 1863 (Limiting to Mar. 31, 1864)	Mnths. 6	$885,271.88	885,272
Ditto	.60	Mar. 3, 1863		13	2,049,320.65	3,415,504
Ditto	1.00	July 1, 1862		410½	568,800,055.65	611,891,249
Ditto	2.00	June 13, 1898		36½	219,794,522.83	118,807,851
Ditto	1.60	Mar. 2, 1901		12	71,166,711.65	44,478,832
Ditto	1.00	Apr. 12, 1902				
Ditto	1.50	Oct. 22, 1914		192	1,070,426,248.81	917,944,430
Ditto	3.00	Oct. 3, 1917				
Ditto	6.00	Feb. 24, 1919			117,503,895.60	27,711,648
Total					$2,050,626,009.07	1,725,141,086

NOTE.—The Act of July 1, 1862, went into operation September 1, 1862. The Act of March 3, 1863, provided that the tax on fermented liquors should be 60 cents per barrel from the date of the passage of that Act to April 1, 1864. Hence the tax of 60 cents per barrel having expired by limitation April 1, 1864, the tax of $1 per barrel under Act of July 1, 1862, was again revived, and this rate under different acts continued in force from and including that date until the passage of the Act of June 13, 1898, when the tax was increased to $2 per barrel. The Act of March 2, 1901, reduced the tax to $1.60 per barrel to take effect July 1, 1901. The Act of April 12, 1902, restored the tax to the original tax of $1.00 per barrel, to take effect July 1, 1902.

The Act of October 22, 1914— increased tax to $1.50 per barrel.

The Act of October 3, 1917, increased tax to $3.00 per barrel and imposed a Floor Tax on Fermented Liquors of $1.50 per barrel.

E.—*STATEMENT of Fermented Liquors Removed from Breweries in Bond, Free from Tax, from July 1, 1918, to June 30, 1919.*

	1918 Gallons	1919 Gallons
Removed for export and unaccounted for July 1, 1918 and 1919, respectively	396,576	550,412
Removed for direct exportation	154,619	32,365
Removed in original packages, to be bottled for export	212,674	169,305
Removed by pipe line, to be bottled for export	2,466,784	2,933,875
Excess reported by bottlers	10,237	9,588
Total	3,240,890	3,695,545

	1918 Gallons	1919 Gallons
Exported in original packages, proofs received	155,902	32,491
Exported in bottles, proofs received	2,459,657	2,933,176
Removed for export, unaccounted for, tax paid	45,345	78,275
Excess reported by bottlers	29,574	29,707
Removed for export, unaccounted for, June 30, 1918 and 1919, respectively	550,412	621,296
Total	3,240,890	3,695,545

NOTE.—The last drawback, amounting to $378.09, was paid in 1892 and none since.

E½.—*FERMENTED Liquors Removed from Breweries in Bond for Export During the Years Ending June* 30, 1918 *and* 1919, *by Districts.*

DISTRICTS	1918 Gallons	1919 Gallons
California, first	604,196	1,055,163
" sixth	149,485	61,804
Hawaii	30,335	11,870
Kentucky, sixth	6,603	1,860
Louisiana	61,334	101,499
Maryland	372	.....
Massachusetts, third	14,740	7,564
Missouri, first	252,460	45,770
" sixth	.....	23,250
New Jersey, fifth	342,581	249,234
New York, first	632,813	626,030
" second	620	.....
" third	177,108	273,939
" fourteenth	15,696	15,061
" twenty-eighth	3,968	.....
Ohio, eleventh	28,272	.....
Texas, third	9,278	1,891
Wisconsin, first	475,438	642,413
" second	28,768	18,197
Total	2,834,077	3,135,545

F.—TABLE Showing by States and Territories the Sources of Collections from Fermented Liquors for the Year Ended June 30, 1919

States and Territories	COLLECTIONS						
	Fermented liquors			Brewers		Malt liquor dealers	
	Per barrel, $3.	Per barrel, $6.	Increased value of beer stamps in hands of brewers, other assessments, etc.	Less than 500 barrels, $50.	500 barrels or more, $100.	Retail, $20.	Wholesale, $50.
Alabama						$540.00	
Alaska							
Arizona							
Arkansas						10.00	
California	$1,669,224.20	$1,265,802.00	$58,094.31	$583.34	$1,300.00	5,408.93	$7,137.50
Colorado	1,350.00	990.00	90.00	100.00	25.00	389.17	250.00
Connecticut	1,231,572.00	941,259.00	69,785.07	50.00	800.00	1,039.17	8,718.75
Delaware	193,317.00	154,920.00	3,435.75			20.00	275.00
District of Col'bia							
Florida	8,719.48		168.72		100.00		200.00
Georgia							
Hawaii	4,699.46					20.00	50.00
Idaho							
Illinois	6,621,414.50	4,616,142.50	142,172.83		5,600.00	20,775.31	35,123.31
Indiana	1,797.75		1,410.00		1,912.50	1,339.34	281.29
Iowa						2,845.88	635.42
Kansas				75.00		1,312.50	186.67
Kentucky	762,051.02	576,975.00	20,477.70		100.00	1,642.03	1,216.69
Louisiana	571,647.38	513,090.00	10,259.05			1,589.01	858.34
Maine	1,024.50	556.50		583.33		16,555.62	2,141.68
Maryland	1,435,689.00	215,476.50	17,485.13		400.00	2,345.90	1,278.18
Massachusetts	3,240,343.50	2,574,667.50	49,011.00	50.00	1,000.00	1,096.86	6,105.21
Michigan			300.00	328.12	791.67	21.67	50.00
Minnesota	1,203,145.50	1,419,705.00	39,327.45	150.00	2,958.34	4,304.62	7,374.03
Mississippi						465.01	
Missouri	3,424,273.38	2,891,676.00	62,445.43	50.00	1,000.00	4,342.61	5,560.47
Montana	262,741.50	44,238.00	2,045.63	200.00	1,500.00	2,604.15	6,075.00
Nebraska			180.00		1,275.00		
Nevada	13,060.00	330.00	8.00		100.00	360.00	1,183.34
New Hampshire							
New Jersey	4,354,092.50	3,734,003.25	133,597.83	50.00	2,800.00	2,297.52	13,920.79
New Mexico	5,812.50			50.00		82.50	441.67
New York	16,288,824.50	15,042,549.44	339,822.72	250.00	8,333.33	6,338.10	27,237.49
North Carolina				300.00		60.00	
North Dakota							
Ohio	6,517,040.00	3,152,217.39	91,937.09	100.00	3,983.33	2,456.28	24,910.13
Oklahoma			15.00	191.66		506.68	56.25
Oregon	60.00			75.00		30.00	
Pennsylvania	10,083,133.57	9,806,366.75	146,046.17	50.00	10,983.34	4,760.01	23,525.67
Rhode Island	1,126,090.50	753,570.00			600.00	360.00	725.00
South Carolina				75.00		441.67	50.00
South Dakota						217.50	
Tennessee				50.00	100.00	30.00	
Texas	20,010.38	81,067.88			987.50	717.80	572.93
Utah				143.75			
Vermont						114.17	562.52
Virginia							64.17
Washington			55.08	264.36		11.69	12.51
West Virginia							
Wisconsin	5,273,077.35	3,986,934.00	129,074.18	100.00	2,375.00	3,841.03	10,716.67
Wyoming	60,390.00	37,197.00	2,307.75	100.00		1,286.70	2,635.46
Philippine Islands							
Total	$64,374,610.47	$51,809,733.71	$1,319,551.89	$3,969.56	$49,025.01	$92,579.43	$190,132.14
Collections for fiscal year ended June 30, 1918	124,264,753.65		1,462,827.51	3,649.17	82,574.16	147,330.61	324,722.55

G.—PRODUCTION OF BEER IN THE UNITED STATES

FOR THE FISCAL YEAR ENDING JUNE 30, 1919, AND THE TEN PRECEDING YEARS
Compiled by *The Brewers' Journal*, up to and including 1914

States and Territories	1909	1910	1911	1912	1913
	Barrels	Barrels	Barrels	Barrels	Barrels
Alabama	57,204	11,520	13,290	39,835	44,945
Alaska	52,971	58,292	6,283	7,417	5,891
Arizona	11,442	11,886	15,147	18,850	20,410
Arkansas	10,024	12,700	10,025	8,850	10,550
California	1,128,565	1,163,891	1,215,405	1,296,355	1,335,449
Colorado	381,710	412,962	435,072	387,761	389,472
Connecticut	708,621	770,148	736,146	736,261	786,267
Delaware	154,654	162,501	142,017	129,695	145,895
District of Columbia	310,883	325,112	286,721	284,576	266,580
Florida	15,750	19,425	18,350	21,200	25,500
Georgia	115,155	128,750	129,455	138,955	141,620
Hawaii	14,018	13,618	16,683	20,567	25,348
Idaho	42,669	43,900	32,780	29,591	27,213
Illinois	5,525,473	6,024,884	6,630,254	6,263,862	6,656,823
Indiana	1,272,017	1,303,166	1,469,030	1,546,292	1,699,281
Iowa	437,177	482,668	511,536	447,114	484,088
Kansas	5,872	510	.....	.....	.....
Kentucky	704,710	756,325	822,555	801,935	821,640
Louisiana	473,027	462,795	471,560	483,988	542,156
Maine	.....	.....	.....	.....	.....
Maryland	911,108	936,716	1,077,884	1,093,838	1,139,620
Massachusetts	2,042,993	2,112,006	2,381,435	2,386,905	2,541,615
Michigan	1,483,207	1,538,663	1,724,156	1,792,105	2,008,371
Minnesota	1,411,570	1,578,706	1,652,184	1,512,139	1,633,452
Mississippi	.....	.....	.....	.....	.....
Missouri	3,704,978	3,890,147	4,223,769	4,030,390	4,170,085
Montana	335,998	346,888	241,385	232,618	268,851
Nebraska	389,820	414,519	436,268	413,014	442,388
Nevada	60,132	81,204	18,740	18,662	15,420
New Hampshire	274,733	268,168	260,395	266,720	289,010
New Jersey	3,114,713	3,260,914	3,418,162	3,397,375	3,531,616
New Mexico	13,083	15,089	8,777	9,240	8,756
New York	12,572,042	13,095,353	13,732,743	13,677,850	13,956,878
North Carolina	.....	.....	.....	.....	.....
North Dakota	.....	.....	.....	.....	.....
Ohio	4,058,438	4,252,077	4,573,275	4,742,665	5,150,187
Oklahoma	.....	.....	.....	.....	178
Oregon	194,231	224,722	245,002	243,819	222,888
Pennsylvania	7,050,262	7,664,141	7,811,731	7,449,543	7,959,509
Rhode Island	502,967	541,217	649,171	667,385	701,630
South Carolina	5,157	2,942	5,258	2,688	3,362
South Dakota	44,940	50,605	52,345	44,808	44,352
Tennessee	255,200	221,850	256,395	273,850	278,882
Texas	552,976	611,399	678,796	673,262	744,911
Utah	81,861	85,266	140,123	129,105	140,648
Vermont	.....	.....	.....	.....	.....
Virginia	164,267	174,451	190,473	196,756	208,511
Washington	740,966	801,589	875,028	854,147	876,772
West Virginia	293,189	302,780	363,330	370,142	371,017
Wisconsin	4,569,941	4,790,797	5,287,347	5,016,701	5,171,179
Wyoming	29,689	37,855	16,110	16,935	15,300
Total	56,303,497	59,485,117	63,283,123	62,176,694	65,324,876

G (continued).—PRODUCTION OF BEER IN THE UNITED STATES

FOR THE FISCAL YEAR ENDING JUNE 30, 1919, AND THE TEN PRECEDING YEARS
Compiled by *The Brewers' Journal*, up to and including 1914

States and Territories	1914	1915	1916	1917	1918	1919
	Barrels	Barrels	Barrels	Barrels	Barrels	Barrels
Alabama	45,426	35,650	.....	.....	.....	.....
Alaska	8,983	5,912	6,590	8,728	3,705	.....
Arizona	21,235	8,535	2,510	122	.....	.....
Arkansas	10,950	10,827	6,004	.....	.....	.....
California	1,390,890	1,281,951	1,382,589	1,542,876	1,489,880	680,867
Colorado	374,853	326,138	163,544	707	966	780
Connecticut	786,272	760,502	909,114	1,019,572	883,898	565,718
Delaware	137,820	125,599	132,530	158,705	146,183	80,475
District of Columbia	230,944	169,973	122,285	161,791	47,527	3,153
Florida	25,455	29,983	28,218	29,463	14,617	.....
Georgia	142,430	110,073	80,387	.....	.....	.....
Hawaii	31,335	35,194	40,858	44,781	22,563	70
Idaho	20,545	23,796	11,830	.....	.....	.....
Illinois	6,987,568	6,269,757	5,955,231	6,223,097	4,925,066	2,768,973
Indiana	1,769,038	1,568,028	1,436,099	1,548,615	933,232	386,004
Iowa	503,370	472,764	210,498	.....	.....	.....
Kansas	20	.....	.....	.....	.....	.....
Kentucky	858,515	763,112	672,417	673,272	550,583	303,982
Louisiana	524,965	502,811	547,014	514,361	436,227	263,738
Maine	1,631	590	104	866	1,803	374
Maryland	1,177,744	1,116,811	1,119,896	1,164,121	1,041,515	522,507
Massachusetts	2,521,618	2,378,437	2,450,411	2,518,887	2,218,816	1,396,574
Michigan	2,113,494	1,929,472	2,154,802	2,338,521	1,534,163	65,753
Minnesota	1,749,555	1,643,108	1,511,916	1,539,321	1,068,073	490,612
Mississippi	.....	.....	.....	.....	.....	.....
Missouri	4,142,160	3,567,763	3,344,092	3,434,174	2,880,964	1,265,739
Montana	288,247	241,642	276,567	319,313	271,836	65,497
Nebraska	453,640	425,919	412,924	362,356	.....	.....
Nevada	17,580	17,558	14,515	14,869	14,625	6,705
New Hampshire	283,100	282,027	279,124	268,564	166,115	.....
New Jersey	3,495,594	3,219,685	3,278,613	3,402,420	2,927,442	2,154,474
New Mexico	8,637	9,168	9,850	9,657	6,295	.....
New York	14,040,387	13,180,111	12,732,529	13,198,400	11,325,413	1,597,566
North Carolina	.....	.....	.....	.....	.....	.....
North Dakota	.....	.....	.....	.....	.....	.....
Ohio	5,147,419	4,622,581	4,844,239	5,458,868	4,825,373	1,948,470
Oklahoma	.....	13	55	187	106	.....
Oregon	212,276	181,272	106,260	6,265	.....	.....
Pennsylvania	8,008,786	7,166,300	7,634,211	8,174,457	7,315,640	4,444,025
Rhode Island	691,734	621,977	650,775	680,558	669,255	501,564
South Carolina	4,607	3,767	812	.....	.....	.....
South Dakota	44,557	43,052	43,403	50,636	.....	.....
Tennessee	225,923	89,573	48,548	32,999	.....	.....
Texas	740,502	661,867	706,910	755,582	550,643	137,622
Utah	149,715	130,121	139,112	164,126	24,156	.....
Vermont	.....	.....	.....	.....	.....	.....
Virginia	197,035	164,517	153,806	54,182	299	.....
Washington	965,562	876,962	468,073	.....	.....	1,530
West Virginia	342,942	.....	.....	.....	.....	.....
Wisconsin	5,278,989	4,718,431	4,525,027	4,919,014	3,935,672	2,036,873
Wyoming	15,425	14,872	19,332	22,948	33,565	22,958
Total	66,189,473	59,808,210	58,633,624	60,817,379	50,266,216	27,712,648

H.—*TABLE Showing Tax Paid Fermented and Distilled Liquors, Corresponding Quantities, Estimated Increase of Population, for the Fiscal Year Ended June 30, 1918, by States and Territories; also Number of Retail Dealers, and Population to Each Dealer.*

States and Territories	Fermented Liquors		Distilled Spirits		Population 1918[1] (See Note Below)	Number of Retail Dealers	Dealer per Population
	Tax paid at $1.50 per Barrel of 31 gals.	Quantities in Gallons	Tax paid at $1.10 per Gallon	Quantities in Gallons			
1 Alabama	.....	.....	$10,733	7,581	2,395,270	328	7,302
2 Alaska	$7,377.25	114,833	.....	.....	64,990	325	199
3 Arizona	.....	.....	.....	.....	272,034	14	19,431
4 Arkansas	.....	.....	9,326	6,034	1,792,965	43	41,696
5 California	3,646,545.87	45,432,617	4,976,527	2,930,690	2,119,412	7,024	444
6 Colorado	2,349.00	29,946	.....	.....	1,014,581	166	6,111
7 Connecticut	2,197,432.50	27,400,856	58,628	32,722	1,286,268	2,406	534
8 Delaware	365,970.00	4,531,657	.....	.....	216,941	212	1,023
9 Dist. Col'bia	81,517.50	1,473,352	143,802	130,729	374,584	208	1,800
10 Florida	35,917.77	452,609	432	392	938,877	403	2,329
11 Georgia	.....	.....	.....	.....	2,935,617	320	9,173
12 Hawaii	54,058.54	669,122	39,524	22,129	223,419	65	3,437
13 Idaho	.....	.....	.....	.....	461,766	74	6,240
14 Illinois	12,207,981.64	152,677,024	26,103,877	14,568,699	6,317,734	14,617	432
15 Indiana	2,146,900.51	28,930,161	19,127,203	10,569,661	2,854,167	2,442	1,168
16 Iowa	.....	.....	.....	.....	2,224,771	439	5,067
17 Kansas	.....	.....	.....	.....	1,874,195	61	30,724
18 Kentucky	1,355,695.82	17,061,457	63,551,051	29,606,543	2,408,547	1,749	1,377
19 Louisiana	1,076,996.61	13,461,697	6,224,486	3,468,443	1,884,778	2,506	752
20 Maine	3,672.75	55,880	.....	.....	782,191	910	858
21 Maryland	2,615,467.99	32,286,593	9,063,523	4,262,462	1,384,539	2,163	640
22 Massachusetts	5,511,419.25	68,768,571	1,908,453	886,646	3,832,790	3,749	1,022
23 Michigan	3,601,034.17	47,559,071	26,168	18,773	3,133,678	2,078	1,508
24 Minnesota	2,629,181.57	33,110,250	278	86	2,345,287	2,708	866
25 Mississippi	.....	.....	.....	.....	2,001,466	277	7,225
26 Missouri	7,176,721.65	89,057,420	1,458,292	650,428	3,448,498	4,940	698
27 Montana	669,393.63	8,426,916	57,321	26,266	486,376	1,910	254
28 Nebraska	.....	.....	914	830	1,296,877	80	16,210
29 Nevada	35,492.25	453,384	.....	.....	114,742	473	242
30 New Hamp're	399,358.50	5,149,552	2,296	2,087	446,352	373	1,196
31 New Jersey	7,231,193.50	90,408,121	151,325	78,270	3,080,371	8,564	359
32 New Mexico	14,118.75	195,132	.....	.....	437,015	557	784
33 New York	28,088,953.46	350,257,539	10,317,903	4,613,097	10,646,989	19,676	541
34 N. Carolina	.....	.....	.....	.....	2,466,025	701	3,517
35 N. Dakota	.....	.....	.....	.....	791,437	29	27,290
36 Ohio	12,049,017.48	149,558,300	10,810,556	5,337,208	5,273,814	6,207	849
37 Oklahoma	159.13	3,286	.....	.....	2,377,629	190	12,513
38 Oregon	.....	.....	39,052	35,501	888,243	145	6,125
39 Pennsylvania	18,319,040.99	226,784,849	18,773,634	9,042,250	8,798,067	15,792	557
40 Rhode Island	1,683,472.50	20,746,905	.....	.....	637,415	1,350	472
41 So. Carolina	.....	.....	.....	.....	1,660,934	629	2,640
42 So. Dakota	.....	.....	.....	.....	735,434	34	21,630
43 Tennessee	.....	.....	.....	.....	2,321,253	168	13,816
44 Texas	1,196,544.16	17,069,933	2,083	2,316	4,601,279	2,589	1,777
45 Utah	36,233.25	748,805	23	21	453,648	492	922
46 Vermont	.....	.....	.....	.....	366,192	135	2,712
47 Virginia	.....	.....	55,756	25,139	2,234,030	126	17,730
48 Washington	.....	.....	.....	.....	1,660,578	328	5,062
49 W. Virginia	.....	.....	254,045	124,231	1,439,165	127	11,332
50 Wisconsin	9,735,590.66	121,501,595	1,398,270	826,059	2,552,983	8,056	317
51 Wyoming	89,895.00	1,040,515	29	26	190,380	376	506
Total	$124,264,703.65	[2]1,555,417,948	$174,566,230	[3]87,275,319	105,547,593	119,334	[4]880

Notes:—
[1] Estimated population July 1, 1918, by the Director of the Bureau of the Census.
[2] Per capita Fermented Liquors, 14.73+ gallons.
[3] Per capita Distilled Spirits, .82+ gallons.
[4] Population to each Dealer.

IMPORTS AND EXPORTS

OF

MALT LIQUORS, HOPS, BARLEY-MALT, AND RICE MEAL, RICE FLOUR AND BROKEN RICE

DURING THE FISCAL YEARS BELOW ENUMERATED

A.—IMPORT of Foreign Beer, Ale, Porter and Other Malt Liquor for Ten Years.

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Gallons	Value	Gallons	Value
1909	1,801,043	$1,695,747	5,105,062	$1,519,660
1910	1,727,541	1,605,919	5,560,491	1,658,034
1911	1,954,092	1,790,492	5,339,800	1,605,874
1912	1,651,564	1,571,336	5,523,941	1,708,590
1913	1,452,728	1,372,823	6,245,922	1,917,442
1914	1,213,320	1,152,598	5,963,913	1,814,431
1915	799,946	768,893	2,551,158	818,505
1916	872,402	850,913	1,740,333	605,980
1917	632,064	717,653	1,608,113	682,843
1918	178,299	253,308	202,792	130,258
Total	12,282,999	$11,779,682	39,841,525	$39,461,617

Of Foreign Beer, etc., Imported in 1918, there were received from

COUNTRIES	Gallons	Value	Gallons	Value
England	92,167	$139,366	143,766	$93,028
Ireland	21,108	30,893	58,962	37,783
Scotland	831	718	3,058	2,054
Canada	28,853	31,544	2,472	1,524
Danish West Indies (Virgin Islands)	6	14	.....	.....
Total	142,965	$202,535	208,268	$134,389

A½.—*EXPORT of Foreign Beer, Ale, Porter and Other Malt Liquor for Ten Years.*

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Gallons	Value	Gallons	Value
1909	1,147	$955	.....	.....
1910	2,622	2,197	6,340	$2,458
1911	4,720	3,723	3,292	1,239
1912	16,839	14,042	3,360	1,076
1913	23,362	21,274	2,750	1,636
1914	10,667	8,636	1,672	499
1915	1,786	1,456	10	6
1916	28,977	18,655	28,180	14,826
1917	825	931	9	8
1918	741	921	.....	.....
Total	91,686	$71,790	45,613	$21,748

B.—*EXPORT of Beer and Ale of Domestic Produce for Ten Years.*

YEARS	IN BOTTLES OR JUGS		IN OTHER COVERINGS	
	Doz. Qts.	Value	Gallons	Value
1909	635,361	$964,992	246,525	$45,795
1910	596,883	877,324	390,477	73,859
1911	689,093	990,395	451,694	85,164
1912	754,422	1,101,169	305,394	60,150
1913	866,684	1,301,244	312,965	70,219
1914	962,627	1,405,581	326,946	79,595
1915	696,690	1,010,222	245,494	71,890
1916	674,745	969,071	328,229	95,556
1917	966,146	1,379,921	249,237	62,104
1918	.....	.....	.....	.....
Total	6,842,651	$9,999,919	2,856,961	$644,432

C.—*EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June* 30, 1912, 1913, 1914, 1915, 1916, 1917

IN BOTTLES OR JUGS

Countries	1912		1913		1914		1915		1916		1917		Total	
	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value
Europe: Austria-Hungary	.....	.....	.....	.....	68	$85	.....	.....	.....	.....	.....	.....	68	$85
Azores & Madeira Islands	70	$100	40	$50	55	69	15	$22	38	$61	88	$120	306	422
Belgium	146	192	82	145	8	10	.....	.....	.....	.....	.....	.....	236	347
Denmark	.....	.....	.....	.....	.....	.....	.....	.....	6	10	1,403	2,006	1,409	2,016
France	187	260	230	352	322	425	145	234	60	96	76	107	1,020	1,474
Germany	620	952	698	972	903	1,499	192	283	.....	.....	.....	.....	2,413	3,706
Gibraltar	275	330	.....	.....	.....	.....	150	201	75	111	.....	.....	500	642
Greece	.....	.....	.....	.....	.....	.....	.....	.....	6	10	150	186	156	196
Italy	3,638	4,226	2,647	3,118	1,265	1,497	620	730	200	300	39	52	8,409	9,923
Netherlands	.....	.....	.....	.....	225	546	500	664	.....	.....	.....	.....	725	1,210
Norway	.....	.....	.....	.....	.....	.....	.....	.....	6	8	.....	.....	6	8
Portugal	.....	.....	4	8	.....	.....	6	9	16	23	11	23	37	63
Spain	10	12	.....	.....	.....	.....	2	3	.....	.....	6	10	18	25
Turkey	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
England	1,427	2,171	1,363	2,104	1,855	2,864	1,847	2,819	671	977	334	524	7,497	11,459
Scotland	.....	.....	.....	.....	.....	.....	40	65	.....	.....	.....	.....	40	65
Ireland	.....	.....	.....	.....	.....	.....	20	40	.....	.....	.....	.....	20	40
North America:														
Bermuda	5,302	7,828	5,206	7,545	4,872	6,745	4,935	7,314	6,606	9,925	9,699	14,233	36,620	53,590
British Honduras	5,505	7,404	8,034	10,355	9,834	12,501	10,705	14,001	5,388	7,431	7,732	11,120	47,198	62,812
Canada	427,861	652,372	595,778	931,146	577,550	881,721	217,789	330,966	64,011	102,686	38,439	63,156	1,921,428	2,962,047
New Foundland and Labdr.	2,907	4,774	2,086	3,031	1,633	2,385	2,047	2,554	2,397	3,184	881	1,108	11,951	17,036
Central America:														
Costa Rica	9,110	12,456	5,127	6,776	12,429	16,318	6,948	9,448	10,073	14,141	9,720	13,930	53,407	73,069
Guatemala	7,899	10,685	13,949	17,266	21,142	27,644	10,505	13,719	12,105	16,859	16,387	23,934	81,987	110,107
Honduras	9,418	13,026	8,085	10,792	30,008	39,028	32,709	43,238	27,888	37,333	18,947	27,679	127,055	171,096
Nicaragua	14,180	18,587	11,565	15,448	15,687	21,699	12,886	19,112	19,973	28,768	26,620	40,428	100,911	144,042
Panama	83,771	113,063	43,118	58,185	28,459	37,643	14,432	18,728	12,131	16,686	22,363	35,289	204,274	279,594
Salvador	692	1,029	1,354	1,981	2,280	3,182	2,526	3,980	4,330	6,398	7,756	11,566	18,938	28,136
Mexico	17,977	27,316	25,534	38,725	64,125	99,946	93,046	151,728	113,845	180,437	148,066	222,343	462,593	720,495
Miquelon, Langley, etc.	117	194	75	80	120	183	84	134	50	83	105	171	551	845

C.—(Continued) *EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June* 30, 1912, 1913, 1914, 1915, 1916, 1917

IN BOTTLES OR JUGS

Countries	1912		1913		1914		1915		1916		1917		Total	
	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value
West Indies:														
Barbados	2,006	$3,178	2,415	$3,826	3,391	$5,458	3,095	$4,417	5,164	$7,277	10,656	$13,612	26,727	$37,768
Jamaica	19,556	26,103	18,665	24,580	23,508	31,922	29,516	39,581	36,469	50,084	58,131	77,785	185,845	250,055
Trinidad & Tobago	19,181	21,768	11,793	15,508	7,585	9,982	22,961	32,729	29,839	41,354	47,532	62,964	138,891	184,305
Other British	3,037	4,267	3,656	5,345	4,107	6,229	5,964	8,934	11,394	16,621	19,293	27,399	47,451	68,795
Danish	40	70	370	555	148	239	56	98	397	518	8,793	11,633	9,804	13,113
Dutch	235	401	50	69	12	17	779	1,221	2,296	3,513	5,156	7,587	8,528	12,808
French	196	239	136	174	66	87	668	879	3,754	4,777	11,003	14,373	15,823	20,529
Haiti	2,816	3,707	2,876	3,922	3,879	5,092	5,329	6,701	41,870	55,345	29,169	40,011	85,939	114,778
Dominican Republic	8,939	12,233	14,197	17,683	30,989	38,471	52,425	67,015	75,394	100,029	138,152	205,833	320,096	441,264
Cuba	35,534	51,342	37,282	52,163	41,771	54,761	37,531	54,584	61,642	87,067	94,554	128,452	308,314	428,369
South America:														
Argentina	3,600	5,222	5,856	7,839	11,244	13,185	2,510	3,479	2,422	3,430	5,969	9,151	31,601	42,306
Bolivia	580	756	.....	.....	320	576	30	50	1,668	2,222	2,795	4,245	5,393	7,849
Brazil	.....	.....	298	396	245	331	180	249	1,954	2,975	4,112	5,449	6,789	9,400
Chile	706	866	637	912	77	106	1,445	1,967	220	270	828	1,131	3,913	5,252
Colombia	7,466	9,519	8,051	11,866	9,202	12,043	12,696	16,544	13,339	17,725	12,262	16,511	63,016	84,208
Ecuador	4,547	5,878	5,459	6,805	2,457	3,279	1,344	1,883	3,645	4,871	4,831	6,169	22,283	28,885
Guianas: British	125	150	337	584	477	673	1,483	2,297	8,395	12,498	44,298	67,364	55,115	83,566
" Dutch	60	72	.....	.....	.....	.....	40	63	818	1,133	4,962	6,430	5,880	7,698
" French	.....	.....	.....	.....	.....	.....	.....	.....	61	73	1,481	2,044	1,542	2,117
Peru	504	723	283	463	739	1,089	1,136	1,629	2,616	3,552	3,597	5,547	8,875	13,003
Uruguay	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	328	431	328	431
Venezuela	10	14	343	526	1,005	1,518	594	971	1,898	2,746	1,560	2,228	5,416	8,003
Asia: Aden	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	800	1,632	800	1,632
China: Empire	3,606	5,227	321	414	40	60	8,731	11,233	14,006	17,050	28,925	34,466	55,629	68,450
" Japan (L.T.)	47	78	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	47	78
" French (L.T.)	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
East India: British	1,289	1,983	610	737	1,255	1,868	3,198	4,986	10,045	12,487	1,682	2,029	18,079	24,090
" " Brit. other	.....	.....	.....	.....	2	2	159	213	.....	.....	62	102	223	317
" " Dutch	2,802	3,663	3,030	3,828	5,779	7,858	6,611	10,282	28,399	41,775	82,281	113,327	128,902	180,733
" Straits Settlements	180	198	529	663	2,950	3,853	200	220	51	104	4,178	5,109	8,088	10,147

C.—(Continued) *EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June 30, 1912, 1913, 1914, 1915, 1916, 1917*

IN BOTTLES OR JUGS

Countries	1912		1913		1914		1915		1916		1917		Total	
	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value	Doz. Qts.	Value
Asia:														
Hong Kong	1,308	$2,058	156	$208	156	$213	487	$631	2,593	$4,290	3,833	$5,553	8,533	$12,953
Japan	400	482	995	1,300	643	803	520	805	407	558	298	528	3,263	4,476
Korea (Chosen)	20	35	120	205	288	506	730	1,289	1,582	2,805	36	50	2,776	4,890
Russia	14	25	4	10	15	17	.....	.....	14	30	6	13	53	95
Siam	.....	.....	.....	.....	.....	.....	.....	.....	224	372	460	595	684	967
Turkey	10,554	11,276	3,768	4,614	120	189	.....	.....	.....	.....	.....	.....	14,442	16,079
Oceania:														
Australia (British)	5	8	105	156	14,626	18,434	62,489	84,316	1,559	2,501	10	15	78,794	105,430
New Zealand	160	264	200	264	12	15	1,588	2,232	3,218	4,496	1,146	1,409	6,324	8,680
All other British	254	407	421	607	627	932	1,287	1,850	1,959	2,493	2,143	3,157	6,691	9,446
French	1,586	2,262	3,328	4,879	4,618	6,585	2,932	4,201	6,564	9,568	5,112	7,285	24,140	34,780
German	12	17	51	76	41	59	1,677	3,030	2,228	3,458	3,821	4,854	7,830	11,494
Philippine Islands	30,479	47,835	14,818	21,267	16,623	22,048	12,469	17,395	8,892	13,484	2,612	3,383	85,893	125,412
Africa:														
Belgian Kongo	.....	.....	.....	.....	.....	.....	385	509	.....	.....	.....	.....	385	509
British West	570	714	282	386	530	635	179	248	2,517	3,679	6,571	7,308	10,649	12,970
" South	86	137	.....	.....	.....	.....	.....	.....	.....	.....	449	577	535	714
" East	.....	.....	24	36	.....	.....	.....	.....	.....	.....	620	769	644	805
Canary Islands	.....	.....	.....	.....	.....	.....	.....	.....	156	184	.....	.....	156	184
French	.....	.....	.....	.....	.....	.....	56	109	15	24	.....	.....	71	133
Portuguese	.....	.....	.....	.....	.....	.....	840	1,067	630	830	760	867	2,230	2,764
Liberia	.....	.....	3	4	.....	.....	128	188	168	221	.....	.....	299	413
Egypt	800	1,015	240	295	240	456	83	122	4,283	4,903	2,051	2,559	7,697	9,350
German	.....	.....	.....	.....	.....	.....	.....	.....	20	24	.....	.....	20	24
Spanish	.....	.....	.....	.....	.....	.....	10	13	85	128	.....	.....	95	141
Total	754,422	$1,101,169	866,684	$1,301,244	962,627	$1,405,581	696,690	$1,010,222	674,745	$969,071	966,146	$1,379,921	4,921,314	$7,167,208

C½.—*EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ending June* 30, 1912, 1913, 1914, 1915, 1916, 1917

IN OTHER COVERINGS

Countries	1912		1913		1914		1915		1916		1917		Total	
	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value
Europe:														
Azores, etc.	.....	.....	.....	.....	.....	.....	.....	.....	35	$12	25	$5	60	$17
Belgium	216	$53	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	216	53
France	.....	.....	.....	.....	.....	.....	199	$59	.....	.....	2,550	775	2,748	834
Germany	.....	.....	50	$16	60	$21	.....	.....	.....	.....	.....	.....	110	37
Netherlands	.....	.....	.....	.....	28	10	.....	.....	555	195	.....	.....	583	205
Norway	.....	.....	.....	.....	.....	.....	206	57	.....	.....	.....	.....	206	57
Portugal	.....	.....	.....	.....	.....	.....	.....	.....	35	15	.....	.....	35	15
Spain	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	640	210	640	210
England	30	10	.....	.....	160	48	.....	.....	36	18	189	66	415	142
North America:														
Bermuda	1,419	390	2,949	1,070	1,710	620	1,033	379	2,150	632	46,683	12,111	55,674	15,202
Canada	272,118	49,918	258,629	53,152	201,423	40,771	56,476	11,486	11,533	3,312	9,318	3,162	809,497	161,801
Newfoundland & Labrador	644	178	32	17	.....	.....	.....	.....	.....	.....	.....	.....	676	195
Central America:														
Costa Rica	.....	.....	.....	.....	.....	.....	1,277	458	2,442	909	1,430	505	5,149	1,872
Guatemala	.....	.....	.....	.....	.....	.....	500	181	7,700	2,350	.....	.....	8,200	2,531
Honduras	50	20	.....	.....	.....	.....	.....	.....	.....	.....	29	8	79	28
Nicaragua	.....	.....	466	147	.....	.....	.....	.....	632	254	10	3	1,108	404
Salvador	.....	.....	.....	.....	.....	.....	.....	.....	1,014	355	.....	.....	1,014	355
Panama	664	443	.....	.....	.....	.....	400	140	6,322	2,343	.....	.....	7,386	2,916
Mexico	7,912	2,379	34,271	10,477	82,538	25,656	155,704	48,107	239,065	61,327	158,961	32,779	678,451	180,725
West Indies:														
Barbados	255	76	.....	.....	.....	.....	.....	.....	1,575	392	4,814	1,702	6,644	2,170
British, other	78	28	2,100	560	2,700	720	570	155	1,046	340	2,904	886	9,398	2,689
Jamaica	14,468	3,907	7,600	2,041	12,172	3,438	5,975	1,760	6,796	2,430	1,040	354	48,051	13,930
French	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	757	320	757	320
Trinidad & Tabago	1,275	412	.....	.....	1,750	590	.....	.....	75	24	.....	.....	3,100	1,026
Haiti	320	100	603	260	949	289	.....	.....	555	329	2,286	637	4,713	1,615
Dominican Republic	360	82	.....	.....	285	97	3,319	956	3,930	1,749	2,245	998	10,139	3,882
Cuba	1,723	847	1,110	391	.....	.....	1,601	637	29,715	12,850	12,125	6,205	46,274	20,930
Danish	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	345	102	345	102
South America:														
Chile	.....	.....	.....	.....	.....	.....	.....	.....	100	32	25	8	125	40
Colombia	3,125	966	.....	.....	855	343	290	101	2,125	878	620	234	7,015	2,522

C½.—(Continued) *EXPORT of Beer, Ale and Porter to the Principal Foreign Countries During the Fiscal Years Ended June* 30, 1912, 1913, 1914, 1915, 1916, 1917

IN OTHER COUNTRIES

Countries	1912		1913		1914		1915		1916		1917		Total	
	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value	Gallons	Value
South America:														
Argentina	.....	.....	.....	.....	.....	.....	2,568	$1,017	500	$187	.....	.....	3,068	$1,204
Brazil	31	$12	.....	.....	.....	.....	25	8	20	7	.....	.....	76	27
Ecuador	.....	.....	.....	.....	.....	.....	.....	.....	43	17	100	$30	143	47
Peru	.....	.....	.....	.....	.....	.....	.....	.....	160	79	.....	.....	160	79
Uruguay	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	30	8	30	7
Venezuela	.....	.....	.....	.....	.....	.....	30	10	220	78	66	23	316	111
Asia:														
Aden	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,200	680	1,200	680
China	.....	.....	.....	.....	.....	.....	1,515	387	20	7	25	9	1,560	403
Straits Settlements (Brit.)	.....	.....	.....	.....	.....	.....	.....	.....	36	14	.....	.....	36	14
Dutch	.....	.....	.....	.....	.....	.....	600	660	4,599	1,938	.....	.....	5,199	2,598
Japan	945	330	.....	.....	223	$42	600	223	.....	.....	.....	.....	1,768	595
Oceania:														
Philippine Islands	31	9	5,155	$2,088	20,996	6,352	11,337	4,540	2,880	1,560	.....	.....	40,399	14,549
Australia (British)	.....	.....	.....	.....	.....	.....	26	6	585	278	190	44	801	328
Other British	.....	.....	.....	.....	1,097	598	420	195	.....	.....	630	241	2,147	1,034
French	.....	.....	.....	.....	.....	.....	.....	.....	180	85	.....	.....	180	85
Africa:														
British—East	.....	.....	.....	.....	.....	.....	.....	.....	1,550	560	.....	.....	1,550	560
Egypt	.....	.....	.....	.....	.....	.....	824	368	.....	.....	.....	.....	824	368
Total	305,394	$60,150	312,965	$70,219	326,946	$79,595	245,494	$71,890	328,229	$95,556	249,237	$62,104	1,768,265	$439,514

D.—*Domestic Ale, Beer and Porter exported to Foreign Countries, Calendar Years* 1918 and 1919.

ARTICLES AND COUNTRIES	1918		1919	
	Quantity	Value	Quantity	Value
In bottles	*Doz. quarts*	*Dollars*	*Doz. quarts*	*Dollars*
Austria-Hungary	.....	.....	1,500	4,500
Azores, and Madeira Islands	60	120	.....	.....
Belgium	.....	.....	50	97
Denmark	.....	.....	10	21
Iceland, and Faroe Islands	1,300	3,370	4,420	9,484
Italy	201	370	.....	.....
Portugal	.....	.....	2,036	4,188
Switzerland	.....	.....	5	15
United Kingdom—England	10	10	2	6
Bermuda	11,272	21,587	3,143	7,159
British Honduras	6,866	12,763	5,970	11,458
Canada	24,317	40,192	3,023	8,319
Costa Rica	4,537	6,632	6,385	13,064
Guatemala	8,081	13,892	9,864	21,048
Honduras	18,410	33,198	18,010	33,499
Nicaragua	15,371	27,577	11,901	19,572
Panama	10,264	19,996	7,958	16,298
Salvador	1,409	2,790	1,251	2,907
Mexico	56,883	111,399	6,898	11,422
Miquelon, Langley, etc.	225	480	447	1,143
Newfoundland and Labrador	3,435	5,657	22	43
Barbados	8,985	18,576	13,812	28,546
Jamaica	30,093	52,224	55,590	103,917
Trinidad and Tobago	28,860	50,548	32,158	65,719
Other British West Indies	11,230	20,801	12,430	26,428
Cuba	137,776	246,757	235,209	526,191
Dominican Republic	92,857	159,177	87,208	211,300
Dutch West Indies	1,778	3,378	2,666	4,957
French West Indies	14,882	29,765	22,276	50,719
Haiti	27,637	51,681	16,007	32,374
Virgin Islands of U. S.	7,714	14,772	5,449	12,693
Argentina	908	2,160	.....	.....
Bolivia	386	859	1,620	3,336
Brazil	404	1,386	410	844
Chile	252	371	50	107
Colombia	3,502	7,548	3,101	7,519
Ecuador	1,423	2,808	1,833	3,741
British Guiana	40,543	81,364	14,178	34,205
Dutch Guiana	21,832	41,183	2,719	6,288
French Guiana	5,690	10,920	2,388	5,433
Peru	4,165	9,293	11,805	25,747
Venezuela	374	664	926	2,411
Aden	400	725	.....	.....
China	31,388	64,075	43,857	101,206
British India	39,542	84,117	35,842	86,922
British Straits Settlements	31,462	73,957	27,712	74,667
Other British East Indies	2,385	5,446	2,372	5,296
Dutch East Indies	259,548	535,808	130,894	265,555
French East Indies	99	286	148	311
Hongkong	8,706	18,575	20,186	41,224
Japan	3,078	5,447	796	1,889

D.—Continued. *Domestic Ale, Beer and Porter exported to Foreign Countries, Calendar Years* 1918 and 1919.

ARTICLES AND COUNTRIES	1918		1919	
	Quantity	Value	Quantity	Value
In bottles	*Doz. quarts*	*Dollars*	*Doz. quarts*	*Dollars*
Siam	5,811	9,735	2,291	4,518
Turkey in Asia	.....	.....	275	645
Australia	927	1,622	9	27
Other British Oceania	1,384	2,107	292	818
French Oceania	6,358	16,085	3,259	8,853
German Oceania	5,504	6,894	100	125
Philippine Islands	4,122	10,969	750	1,900
Belgian Kongo	20,856	35,732	53,528	101,529
British West Africa	41,303	75,741	48,670	101,320
British South Africa	340	840	3,245	6,663
British East Africa	.....	.....	820	1,793
Canary Islands	.....	.....	70	154
Egypt	.....	.....	800	800
French Africa	9,258	19,247	19,667	41,864
German Africa	.....	.....	2,535	5,330
Liberia	990	1,755	40	90
Portuguese Africa	200	336	4,039	9,592
Total	1,077,593	2,075,767	1,006,927	2,179,809
In other coverings	*Gallons*		*Gallons*	
Azores, and Madeira Islands	30	11	.....	.....
Iceland, and Faroe Islands	.....	.....	525	440
Bermuda	48,510	12,734	8,190	3,120
Canada	2,108	391	500	750
Costa Rica	1,125	557	45	30
Guatemala	.....	.....	410	463
Honduras	350	140	600	575
Nicaragua	1,120	1,163	456	335
Panama	.....	.....	133	140
Salvador	.....	.....	510	293
Mexico	14,829	4,264	11,284	3,001
Miquelon, Langley, etc.	.....	.....	150	300
Barbados	5,985	1,839	630	186
Jamaica	900	575	.....	.....
Other British West Indies	1,738	507	437	270
Cuba	4,113	2,566	1,499	1,430
Dominican Republic	7,300	6,013	2,333	2,521
French West Indies	1,660	835	524	268
Haiti	446	318	300	180
Virgin Islands of U. S.	18	24	190	99
Colombia	1,005	349	.....	.....
Dutch Guiana	2,605	1,595	.....	.....
Peru	48	44	.....	.....
Venezuela	30	14	.....	.....
British India	248	68	.....	.....
Japan	.....	.....	210	273
Other British Oceania	1,210	534	.....	.....
French Oceania	360	230	.....	.....
German Oceania	1,422	708	.....	.....
British West Africa	.....	.....	7,712	1,800
Total	97,160	35,479	36,638	16,474

HOPS

D½.—*Imports of Foreign Hops for Ten Years.*

YEARS	Pounds	Value	Duty	Ad valorem Rate of Duty
1909	7,386,574	$1,337,099	$886,389	66.39%
1910	3,200,560	1,449,354	505,457	33.71%
1911	8,557,531	2,706,600	1,369,205	50.58%
1912	2,991,125	2,231,348	478,580	21.45%
1913	8,494,144	2,852,865	1,359,063	47.63%
1914	5,382,025	2,790,516	861,124	30.85%
1915	11,651,332	2,778,735	1,864,213	67.80%
1916	675,704	144,627	108,113	74.75%
1917	236,849	59,291	37,896	63.91%
1918	106,711	59,185	17,073.70	28.83%
Total	54,662,555	$17,359,620	$7,487,113.70	

Of the Foreign Hops imported in 1918, there were received from:

COUNTRIES	Pounds	Value
France	72,117	$49,098
England	4,587	1,744
Canada	8	15
China	57	4
Japan	6	1
Total	76,775	$50,862

E.—*EXPORTS of Domestic Hops for the Last Ten Fiscal Years.*

YEARS	Pounds	Value
1908	22,920,480	$2,963,167
1909	10,446,884	1,271,629
1910	10,589,254	2,062,140
1911	13,104,774	2,130,972
1912	12,190,663	4,648,505
1913	17,591,195	4,764,713
1914	24,262,896	6,953,529
1915	16,210,443	3,948,020
1916	22,409,818	4,386,929
1917	4,824,876	773,926
1918	3,670,352	970,598
Total	136,301,155	$32,001,063

E.—Of the Domestic Hops exported in 1918, there were shipped to:

Countries	Pounds	Value	Countries	Pounds	Value
France	40,000	$20,000	Bolivia	2,250	$1,122
Iceland and Faroe Islands	184	53	Brazil	351,243	98,141
Portugal	1,850	900	Chili	279,229	103,198
Spain	29,500	10,700	Columbia	42,182	14,392
England	76,404	13,000	British Guiana	675	183
Ireland	20	8	Peru	33,316	6,875
Bermuda	240	62	Uruguay	26,035	6,140
British Honduras	450	152	Venezuela	7,130	1,903
Canada	749,503	151,795	China	5,036	1,141
Costa Rica	725	137	China Leased Territory (Japan)	90	28
Guatemala	400	83	Chosen	255	70
Honduras	1,324	473	British India	249,553	48,954
Nicaragua	2,189	465	Straits Settlements	26,872	7,012
Panama	16,544	4,049	Other British East Indies	2,356	471
Salvador	3,915	799	Dutch East Indies	580	98
Mexico	205,405	59,022	French East Indies	7,274	1,881
Newfoundland and Labrador	25,573	3,907	Hong Kong	3,755	673
Barbados	226	55	Japan	328,115	86,195
Jamaica	7,288	1,362	Siam	262	67
Trinidad and Tobago	6,845	1,847	Australia	290,964	65,891
Other British West Indies	654	139	New Zealand	27,669	7,025
Cuba	248,955	93,284	Other Brit. Oceania	436	69
Danish W. I. (Virgin Islands)	172	48	French Oceania	2,877	550
Dominican Republic	822	241	German Oceania	40	6
Dutch West Indies	184	62	Philippine Islands	11,628	2,342
Haiti	573	186	Belgian Congo	220	70
Argentina	354,430	116,229	British So. Africa	146,223	26,363
			Portuguese Africa	925	77
			Totals	3,670,352	$970,598

BARLEY

F.—*IMPORTATION of Foreign Barley.*

YEARS	Bushels	Value	Duty	Ad valorem Rate of Duty
1908	199,741	$143,407	$59,922	41.78%
1909	2,644	1,440	793	55.08%
1910-1916*	.....	.....	.....	.....
1917	.....	.....	.....	.....
1918	.....	.....	.....	.....
Total	202,385	$144,847	$60,715	

* After 1909— included in "All Other Breadstuffs."

G.—*EXPORTATION of Domestic Barley for Ten Years.*

YEARS	Bushels	Value
1909	6,580,393	$4,672,166
1910	4,311,566	3,052,527
1911	9,399,346	5,381,360
1912	1,585,242	1,267,999
1913	17,536,703	11,411,819
1914	6,644,747	4,253,129
1915	26,754,522	18,184,079
1916	27,473,160	20,663,533
1917	16,381,077	19,027,082
1918	18,805,219	30,565,377
Total	135,431,965	$118,480,271

G½.—Of the Domestic Barley exported in 1918, there were shipped to:

COUNTRIES	Bushels	Value
Belgium	1,783,545	$2,668,357
France	2,866,026	5,188,815
Gibraltar	197,275	295,912
Italy	3,190,683	5,570,839
Norway	218,442	334,883
Russia (Europe)	6,375	13,200
Spain	5,456	8,185
Switzerland	170,000	340,000
England	8,600,787	13,511,585
Scotland	892,595	1,307,185
Ireland	282,111	423,172
Bermuda	21	40
Canada	498,714	743,237
Nicaragua	3	19
Panama	24	44
Mexico	36,955	51,814
New Foundland and Labrador	591	1,713
Barbados	1	3
Trinidad and Tobago	20	42
Cuba	54,887	104,524
Danish West Indies (Virgin Islands)	20	59
Dominican Republic	3	6
Dutch West Indies	4	11
Chile	9	14
Straits Settlements	300	940
French Oceania	222	402
Philippine Islands	45	73
Belgian Congo	1	3
British East Africa	104	300
Totals	18,805,219	$30,565,377

H.—*MALT BARLEY—Importation of Foreign, for the Last Ten Fiscal Years.*

YEARS	Bushels	Value	Duty	Ad valorem Rate of Duty
1909	1,592	$1,992	$716	33.96%
1910*	.....	.....	.....	.....
1911	777	996	350	35.10%
1912	3,771	5,098	1,697	35.28%
1913	10,419	15,121	4,734	31.30%
1914	13,472	16,367	3,368	20.57%
1915–1916*	.....	.....	.....	.....
1917*	.....	.....	.....	.....
1918	10,889	19,212	2,711.75	14.11%

*Included in "All Other Articles" dutiable.

The importation, owing to the high duty, has decreased since 1891 to such an extent that it has almost disappeared as a factor in the brewing interest.

I.—*EXPORTS of Domestic Malt for Ten Years.*

YEARS	Bushels	Value
1909	163,230	$147,258
1910	156,497	129,088
1911	117,882	103,099
1912	76,696	86,323
1913	370,957	300,480
1914	330,608	270,059
1915	2,153,060	2,301,535
1916	3,682,248	3,881,700
1917	4,331,297	5,881,287
1918	896,307	1,694,651
Total	12,278,782	$14,795,480

Of the Domestic Malt Exported in 1918, there were shipped to:

COUNTRIES	Bushels	Value
France	184,071	$445,367
Iceland and Faroe Islands	300	600
Italy	135,757	231,943
Norway	104,697	205,295
Portugal	6,275	10,245
Spain	5	15
British Honduras	10	16
Canada	9,067	14,643
Porto Rico	1,400	2,466
Guatemala	4,705	6,915
Honduras	1,173	1,800
Panama	4,037	6,313
Salvador	2,942	3,750
Mexico	21,176	36,748
New Foundland and Labrador	113	301
Jamaica	42	84
Trinidad and Tobago	1,000	1,800
Cuba	116,471	200,254
Danish W. I. (Virgin Islands)	2	4
Dominican Republic	37	60
Argentina	47,693	89,941
Brazil	22,610	37,971
Chile	40	51
Ecuador	1,770	2,756
Peru	12,596	18,313
Uruguay	42,569	85,724
Venezuela	6,201	10,100
China	4,288	10,464
French East Indies	4,565	7,451
Japan	105,199	161,404
Philippine Islands	52,261	96,527
British So. Africa	3,235	5,330
Totals	896,307	$1,694,651

J.—*RICE, FLOUR, RICE MEAL, AND BROKEN RICE—Importations of Foreign, for Ten Years.*

YEARS	Pounds	Value	Duty	Ad valorem Rate of Duty
1909	134,119,980	$2,336,723	$335,300	14.34%
1910	142,738,383	2,249,205	356,845	15.86%
1911	132,116,821	1,998,056	330,292	16.53%
1912	116,576,653	1,968,177	291,442	14.81%
1913	137,608,742	2,813,778	344,022	12.22%
1914	139,906,868	2,538,941	349,767	13.77%
1915	74,831,312	1,307,509	187,078	14.30%
1916	55,628,767	1,010,885	139,072	13.75%
1917	37,730,024	747,922	94,325	12.61%
1918	75,979,636	2,558,185	188,208	6.83⅓%
Total	1,047,237,186	$10,519,381	$616,351	

Of the Foreign Rice Flour, etc., imported in 1918, there were received from:

COUNTRIES	Pounds	Value
England	4,504	$91
Canada	2,592,486	150,144
China	14,179,432	400,600
China (leased territory—Japanese)	978,054	24,451
Hongkong	54,045,345	1,806,353
Japan	4,179,815	176,546
Total as above	75,979,636	$2,558,185

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